

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Kenneth Seifert d/b/a The Hair Place and
Harmar Barbers, Inc., individually and on
behalf of all others similarly situated,

Civil File No: 20-cv-01102 JRT/DTS

Plaintiffs,

v.

IMT Insurance Company,

Defendant.

**EXHIBIT A TO DEFENDANT'S
MOTION TO DISMISS**



Wadena Insurance
BUSINESSOWNERS
DECLARATIONS
 Renewal

INSURED COPY
 Account No: ACP0P5335
 Policy No: WOP5335
 Previous Policy No:

Agent Number: 660019

Named Insured:
 HARMAR BARBERS
 609 2ND ST
 KENYON, MN 55946

Agent:
 SAFEWAY AGENCY, INC
 34 W MAIN ST
 PO BOX 245
 DODGE CENTER, MN 55927

Policy Period: From **05/07/2019** to **05/07/2020** 12:01 A.M. Standard Time at your mailing address shown above.

Form Of Business: Corporation

Insured's Business: BARBER

**IN RETURN FOR YOUR PAYMENT OF THE REQUIRED PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY,
 WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.**

PREMIUM SUMMARY

Section I - Property	
Building/Business Personal Property Premium	\$65
Includes Business Income and Extra Expense	
Additional/Optional Property Coverages (Premises Level) Premium	\$150
Including: Equipment Breakdown	
Property Ultra Plus	
Additional/Optional Property Coverages (Policy Level) Premium	Included
Including: Identity Recovery	
Section II - Liability	
Premises Liability Premium	\$38
Additional/Optional Liability Coverages	\$156
Including: Barber Shops And Hair Salons Professional Liability	
Employment Practices Liability Coverage	
ADVANCED PREMIUM - MINIMUM PREMIUM	\$475

This is a true and certified copy of the policy term shown.

The premium for certain coverages apply in addition to the minimum premium.

_____ Countersignature	_____ Date
Date Issued: 03/25/2019	

**BUSINESSOWNERS
BO 01 25 03 15**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

MINNESOTA CHANGES

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM INFORMATION SECURITY PROTECTION ENDORSEMENT

- A. The following is added to Paragraph E.3. Duties In The Event Of Loss Or Damage Property Loss Conditions in Section I – Property and Paragraph E.2. Duties In The Event Of Occurrence, Offense, Claim Or Suit Liability And Medical Expenses General Conditions in Section II – Liability of the Businessowners Coverage Form and similar conditions in any endorsement attached to this Policy:**

The requirement to notify us can be satisfied by notifying our agent. Notice can be by any means of communication.

- B. Section I – Property is amended as follows:**

- 1. The following is added to Paragraph A.3. Covered Causes Of Loss:**

We insure for all loss or damage caused by fire or any damage caused by lightning.

- 2. Paragraph A.5.I.(8) of the Increased Cost Of Construction Additional Coverages is replaced by the following:**

(8) This Additional Coverage is not subject to the terms of the Ordinance Or Law Exclusion, to the extent that such exclusion would conflict with the provisions of this Additional Coverage. The coverage afforded under this Additional Coverage does not reduce coverage provided under exceptions to the Ordinance Or Law Exclusion as presented in this Endorsement.

- 3. Paragraph A.5.I.(9) of the Increased Cost Of Construction Additional Coverages does not apply.**

- 4. Paragraph B.1.a. Ordinance Or Law Exclusions is replaced by the following:**

a. Ordinance Or Law

- (1)** The enforcement of or compliance with any ordinance or law:

(a) Regulating the construction, use or repair of any property; or

(b) Requiring the tearing down of any property, including the cost of removing its debris.

- (2)** This exclusion, Ordinance Or Law, applies whether the loss results from:

(a) An ordinance or law that is enforced even if the property has not been damaged; or

(b) The increased costs incurred to comply with an ordinance or law in the course of construction, repair, renovation, remodeling or demolition of property, or removal of its debris, following a physical loss to that property.

- (3)** But if loss or damage is solely a result of one or more Covered Causes of Loss, we will pay for your compliance with such ordinance or law, subject to all other provisions of this Policy, including those listed below, as follows:

(a) In the event of a partial loss, if the building is insured on a replacement cost basis, we will pay for your compliance but only with respect to the damaged portion of the building.

(b) In the event of a total or constructive total loss, we will pay for your compliance with respect to the entire building.

(c) We will not pay under this provision for the costs associated with the enforcement of or compliance with any ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

(d) Any valuation provision (including Replacement Cost) or loss payment condition which excludes the increased cost attributable to an ordinance or law is hereby revised to include such cost to the extent that coverage is provided above in this item, 4. But in no event will we pay more than the applicable Limit of Insurance.

5. The following is added to Paragraph D.1. Deductibles and applies with respect to any deductible applicable to the Businessowners Property Coverage, including a deductible provided by endorsement for a particular cause of loss or coverage:

The Deductible will not apply to total loss of a building.

6. Paragraph E.3. Duties In The Event Of Loss Or Damage Property Loss Conditions is amended as follows:

a. Paragraph a.(3) is deleted.

b. Paragraphs a.(6) and a.(7) are replaced by the following:

(6) As often as we reasonably require:

(a) Permit us to inspect the property. Also, permit us to take samples of damaged and undamaged property for inspection, testing and analysis;

(b) Provide us with records and documents reasonably related to the loss, or certified copies if the originals are lost, and permit us to make copies.

(7) Send us, within 60 days after our request, a signed, sworn proof of loss containing the following information we require to investigate the claim:

(a) A description of how and when the loss or damage occurred;

(b) The value of the property, except in the case of a total loss of an insured building;

(c) The interest of the insured and all others in the property; and

(d) Other insurance which may cover the loss or damage.

We will supply you with the necessary forms.

c. The following is added to Paragraph a.:

(10) Send to us, within a reasonable time after our request, the following:

(a) Changes in title or occupancy of the property during the term of the Policy; and

(b) Specifications of damaged buildings and detailed repair estimates.

d. Paragraph b. is replaced by the following:

b. After we inform an insured:

(1) Of the right to counsel; and

(2) That an insured's answers may be used against the insured in later civil or criminal proceedings;

we may examine any insured under oath, while not in the presence of any other insured and at such times as may be reasonably required, about any matter relating to this insurance or the claim. In the event of an examination, an insured's answers must be signed.

7. Paragraph E.5. Loss Payment Property Loss Conditions is amended as follows:

a. Paragraph g. is replaced by the following:

g. Provided you have complied with all the terms of this Policy, we will pay for covered loss or damage within five business days after:

(1) We have received the proof of loss; and

(2) We have reached an agreement with you; or, in the event we use an independent claims adjuster, we have received the agreement and you have satisfied the conditions of the agreement, if any, or an appraisal award has been made.

b. The following paragraph is added and supersedes any provision to the contrary:

i. **Replacement Cost – Business Personal Property**

(1) We will not pay more for loss or damage on a replacement cost basis than the least of:

(a) The Limit of Insurance applicable to the lost or damaged property;

(b) The applicable Special Limit of Insurance shown in I.(2)(a), I.(2)(b), I.(2)(c) and I.(2)(d) below;

(c) The cost to replace, on the same premises, the lost or damaged property with other property of comparable material and quality and used for the same purpose; or

(d) The amount you actually spend that is necessary to repair or replace the lost or damaged property.

(2) The following Special Limits of Insurance apply to any category of property listed below, unless higher Special Limits Of Insurance are shown in the Declarations. These Special Limits are part of, not in addition to, any Limit Of Insurance shown in the Declarations, and apply in excess of any applicable deductible. The Special Limit of Insurance shown for any category listed below is the most we will pay for loss or damage to all property in that category in any one occurrence.

(a) \$1,000 on used or secondhand merchandise held in storage or for sale;

(b) \$1,000 on property of others;

(c) \$1,000 on household contents, except personal property in apartments or rooms furnished by you as landlord;

(d) \$5,000 on manuscripts, works of art, antiques or rare articles, including etchings, pictures, statuary, marbles, bronzes, porcelains and bric-a-brac.

With respect to the articles described in (a), (b), (c) and (d) above, in no event will we pay you less than we would have paid you if this Endorsement were not attached to the Policy.

c. The following paragraph is added:

j. We agree that, in the event of a total loss, the Limit of Insurance (or the limit shown in the total loss schedule of values) for a building which is Covered Property represents its value.

8. Paragraphs a. and d. under F.2. **Mortgageholders Property General Conditions** are replaced by the following:

a. The term "mortgageholder" includes trustees and contract-for-deed vendors.

d. If we deny your claim because of your acts or because you have failed to comply with the terms of this Policy, the mortgageholder will still have the right to receive loss payment if the mortgageholder:

(1) Pays premium due under the Policy at our request if you have failed to do so;

(2) Submits a signed, sworn proof of loss within 60 days after receiving notice from us of your failure to do so.

All of the terms of this Policy will then apply directly to the mortgageholder.

9. The following paragraph is added to Paragraph F.2.:

h. We will notify the mortgageholder of changes to this Policy that result in a substantial reduction of coverage to the mortgaged property.

C. Section II – Liability is amended as follows:

1. Paragraph A.1.f. **Coverage Extension – Supplementary Payments** is replaced by the following:

f. **Coverage Extension – Supplementary Payments**

(1) We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

(a) All expenses we incur.

(b) Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

(c) The cost of bonds to release attachments, but only for bond amounts within the applicable Limit of Insurance. We do not have to furnish these bonds.

(d) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work

- (e) All costs taxed against the insured in the "suit".
- (f) Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable Limit of Insurance, we will not pay any prejudgment interest based on that period of time after the offer.
- (g) All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable Limit of Insurance.

These payments will not reduce the Limits of Insurance.

- (2) If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

- (a) The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
- (b) This insurance applies to such liability assumed by the insured;
- (c) The obligation to defend, or the cost of the defense of, that indemnitee has also been assumed by the insured in the same "insured contract";
- (d) The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
- (e) The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- (f) The indemnitee:
 - (i) Agrees in writing to:
 - i. Cooperate with us in the investigation, settlement or defense of the "suit";

- ii. Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
- iii. Notify any other insurer whose coverage is available to the indemnitee; and
- iv. Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and

- (ii) Provides us with written authorization to:

- i. Obtain records and other information related to the "suit"; and
- ii. Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

- (a) We have used up the applicable Limit of Insurance in the payment of judgments or settlements; or
- (b) The conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

2. Paragraph b. under Exclusion B.1. **Applicable To Business Liability Coverage** is replaced by the following:

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or

- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement.

3. Paragraph E.1. Bankruptcy Liability And Medical Expenses General Conditions is replaced by the following:

1. Bankruptcy

Bankruptcy, insolvency or dissolution of the insured or of the insured's estate will not relieve us of our obligations under this Policy and in case an execution against the insured on a final judgment is returned unsatisfied, then such judgment creditor shall have a right of action on this Policy against the company to the same extent that the insured would have, had the insured paid the final judgment.

D. Section III – Common Policy Conditions is amended as follows:

1. Paragraph A. Cancellation is replaced by the following:

A. Cancellation

- 1. The first Named Insured shown in the Declarations may cancel this Policy by mailing or delivering to us advance written notice of cancellation.
- 2. We may cancel this Policy, subject to the provisions of 3. below, by first-class mailing, or by delivery, of a written notice of cancellation to the first Named Insured and any agent, to their last mailing addresses known to us. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
- 3. If this Policy has been in effect for:
 - a. Fewer than 90 days and is a new policy, we may cancel for any reason by giving notice at least 10 days before the effective date of cancellation.
 - b. 90 days or more, or if it is a renewal of a policy we issued, we may cancel only for one or more of the following reasons:
 - (1) Nonpayment of premium;

- (2) Misrepresentation or fraud made by you or with your knowledge in obtaining the Policy or in pursuing a claim under the Policy;
- (3) An act or omission by you that substantially increases or changes the risk insured;
- (4) Refusal by you to eliminate known conditions that increase the potential for loss after notification by us that the condition must be removed;
- (5) Substantial change in the risk assumed, except to the extent that we should reasonably have foreseen the change or contemplated the risk in writing the contract;
- (6) Loss of reinsurance by us which provided coverage to us for a significant amount of the underlying risk insured. Any notice of cancellation pursuant to this item shall advise the policyholder that he or she has 10 days from the date of receipt of the notice to appeal the cancellation to the commissioner of commerce and that the commissioner will render a decision as to whether the cancellation is justified because of the loss of reinsurance within 30 business days after receipt of the appeal;
- (7) A determination by the commissioner that the continuation of the Policy could place us in violation of the Minnesota insurance laws; or
- (8) Nonpayment of dues to an association or organization, other than an insurance association or organization, where payment of dues is a prerequisite to obtaining or continuing such insurance. This provision for cancellation for failure to pay dues shall not be applicable to persons who are retired at 62 years of age or older or who are disabled according to social security standards.

Under this Paragraph A.3.b., we will give notice at least:

- (1) 10 days before the effective date of cancellation, if we cancel for nonpayment of premium. The cancellation notice shall contain the information regarding the amount of premium due and the due date, and shall state the effect of nonpayment by the due date. Cancellation shall not be effective if payment of the amount due is made prior to the effective date of cancellation; or
 - (2) 60 days before the effective date, if we cancel for a reason described in 3.b.(2) through (8) above. The notice of cancellation will state the reason for cancellation.
4. If this Policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
 5. If this Policy includes liquor liability coverage with respect to "injury" arising out of the selling, serving or furnishing of alcoholic beverages, then the following provisions shall apply:

If this Policy is cancelled by us, we will notify, in writing, the governmental authority in the State of Minnesota that issued the current liquor license to the Named Insured that the Policy is being cancelled at the same time that the cancellation notice is sent to the first Named Insured.

If the first Named Insured cancels, we will notify, in writing, the governmental authority in the State of Minnesota that issued the current liquor license to the Named Insured that the Policy is being cancelled upon receiving the written notice of cancellation from the first Named Insured.
 6. Unless otherwise specifically required, proof of mailing of any notice shall be sufficient proof of notice.

2. Paragraph C. Concealment, Misrepresentation Or Fraud is replaced by the following with respect to loss or damage caused by fire:

C. Concealment, Misrepresentation Or Fraud

We do not provide coverage to the insured who has:

1. Before a loss, willfully; or
2. After a loss, willfully and with intent to defraud;

concealed or misrepresented any material fact or circumstances concerning:

- a. This Policy;
- b. The Covered Property;
- c. That insured's interest in the Covered Property; or
- d. A claim under this Policy.

3. Paragraph C. Concealment, Misrepresentation Or Fraud is replaced by the following with respect to loss or damage caused by a Covered Cause of Loss other than fire:

C. Concealment, Misrepresentation Or Fraud

We will not pay for any loss or damage if any insured has:

1. Before a loss, willfully; or
2. After a loss, willfully and with intent to defraud;

concealed or misrepresented any material fact or circumstances concerning:

- a. This Policy;
- b. The Covered Property;
- c. That insured's interest in the Covered Property; or
- d. A claim under this Policy.

4. Paragraph D. Examination Of Your Books And Records is replaced by the following:

D. Examination Of Your Books And Records

We may examine and audit your books and records as they relate to this Policy at any time during the policy period and up to one year afterward.

5. Paragraph K. Transfer Of Rights Of Recovery Against Others To Us is replaced by the following:

K. Transfer Of Rights Of Recovery Against Others To Us

1. Applicable to Businessowners Property Coverage:

If any person or organization to or for whom we make payment under this Policy has rights to recover damages from another, those rights are transferred to us to the extent of our payment. That person or organization must do everything necessary to secure our rights and must do nothing after loss to impair them. However, our rights do not apply against:

- a. An insured; or
- b. Any person or organization insured under another policy which was issued by us and responds to the same loss;

provided the loss was not intentionally caused by such insureds.

2. You may waive your rights against another party in writing:

- a. Prior to a loss to your Covered Property.
- b. After a loss to your Covered Property only if, at the time of loss, that party is one of the following:

(1) Someone insured by this insurance, unless the loss was caused intentionally by such insured;

(2) A business firm:

- (a) Owned or controlled by you; or
- (b) That owns or controls you; or

(3) Your tenant.

You may also accept the usual bills of lading or shipping receipts limiting the liability of carriers.

This will not restrict your insurance.

3. Applicable to Businessowners Liability Coverage:

If the insured has rights to recover all or part of any payment we have made under this Policy, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

Our rights do not apply against any person or organization insured under this or any other policy we issue with respect to the same "occurrence", provided the "occurrence" was not intentionally caused by such insureds.

6. The following is added:

M. Nonrenewal

If we decide not to renew this Policy, we may do so by giving the first Named Insured and any agent written notice of our intent not to renew at least 60 days before the expiration date of this Policy. Such notice will be delivered or mailed by first-class mail to their last mailing addresses known to us.

We need not mail or deliver this notice if you have:

- 1. Insured elsewhere;
- 2. Accepted replacement coverage; or
- 3. Agreed not to renew this Policy.

Unless otherwise specifically required, proof of mailing of any notice shall be sufficient proof of notice.

E. The following changes apply only to Information Security Protection Endorsement BP 15 07 if it is attached to this Policy:

1. Paragraph (2) of Insuring Agreement d. Security Breach Liability is replaced by the following:

(2) We will pay for "defense expenses" as a result of a "claim" in the form of a "regulatory proceeding" first made against the insured during the "policy period" or during the applicable Extended Reporting Period, in response to a "wrongful act" or a series of "interrelated wrongful acts" covered under Paragraph d.(1).

2. The following is added to the Limits Of Insurance Provision under Paragraph K.:

In addition to the Information Security Protection Aggregate Limit of Insurance, we will pay prejudgment interest awarded against the insured on the part of the judgment we pay. If we make an offer to pay the Information Security Protection Aggregate Limit of Insurance, we will not pay any prejudgment interest based on that period of time after the offer.

3. The Duties In The Event Of Claim Or Loss Condition under Paragraph M. is replaced by the following:

Duties In The Event Of Claim Or Loss

In the event of either an occurrence or offense that may result in a "claim" against an insured or a "loss" or situation that may result in a "loss" covered under this Endorsement, you must see to it that we or our agent is notified orally or in writing as soon as practicable, but not to exceed 30 days, and cooperate with us in the investigation and settlement of the "claim" or "loss" as set forth below:

a. For "claims" covered under Insuring Agreements d. Security Breach Liability and g. Web Site Publishing Liability, you must:

- (1) Immediately record the specifics of the "claim" and the date received;
- (2) Immediately send us or our agent copies of any demands, notices, summonses or legal papers received in connection with the "claim";
- (3) Authorize us to obtain records and other information; and

(4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to you because of an occurrence or offense to which this Endorsement may also apply.

You will not, except at your own cost, voluntarily make a payment, assume any obligation or incur any expense without our consent.

A "claim" brought by a person or organization seeking damages will be deemed to have been made when the "claim" is received by an insured.

b. Under Insuring Agreement a. Replacement Or Restoration Of Electronic Data and Insuring Agreement e. Extortion Threats, you must:

- (1) Notify local law enforcement officials;
- (2) Submit to examination under oath at our request and give us a signed statement of your answers; and
- (3) Give us a detailed, sworn proof of loss within 120 days.
- (4) In addition, under Insuring Agreement e. Extortion Threats, you must:
 - (a) Determine that the "extortion threat" has actually occurred;
 - (b) Make every reasonable effort to immediately notify an associate and the security firm, if any, before making any "ransom payment" based upon the "extortion threat";
 - (c) With respect to "ransomware", make a reasonable effort to access your "electronic data" from backup; and
 - (d) Approve any "ransom payment" based upon the "extortion threat".

4. Paragraph d. of the definition of "loss" in Paragraph V. is replaced by the following:

d. With respect to Insuring Agreements d. Security Breach Liability and g. Web Site Publishing Liability:

Compensatory damages, settlement amounts and costs awarded pursuant to judgments or settlements. "Loss" does not include:

- (1) Civil or criminal fines or penalties imposed by law;

(2) Punitive or exemplary damages;

(3) The multiplied portion of multiplied damages;

(4) Taxes;

(5) Royalties;

(6) The amount of any disgorged profits; or

(7) Matters that are uninsurable pursuant to law.



**BUSINESSOWNERS
DECLARATIONS
SCHEDULE OF INSUREDS**

Policy No: WOP5335
Policy Period:
From 05/07/2019 to 05/07/2020

INSURED NAMES

Corporation

HARMAR BARBERS



**BUSINESSOWNERS
DECLARATIONS
ENDORSEMENT SCHEDULE**

Policy No: WOP5335
Policy Period:
From 05/07/2019 to 05/07/2020

ENDORSEMENT NUMBER AND EDITION DATE	ENDORSEMENT TITLE
BP IN 01 07 13	Businessowners Coverage Form Index
BP 00 03 07 13	Businessowners Coverage Form
BP 04 02 07 13	Additional Insured - Managers Or Lessors Of Premises
ML 60 22 06 94	Amendatory Endorsement
BO 08 01 07 13	Barber Shops And Hair Salons Professional Liability
BP 05 01 07 02	Calculation Of Premium
BP 05 23 01 15	Cap On Losses From Certified Acts Of Terrorism
BP 05 47 07 13	Computer Fraud And Funds Transfer Fraud
BP 05 15 01 15	Disclosure Pursuant To Terrorism Risk Insurance Act
BO 60 46 01 11	Employment Practices Liability Insurance Coverage Endorsement
BP 04 17 01 10	Employment-Related Practices Exclusion
BO 60 50 01 11	Equipment Breakdown Coverage
BP 15 04 05 14	Exclusion - Access Or Disclosure Of Confidential Or Personal Information And Data-Related Liability - With Limited Bodily Injury Exception
BO 60 02 01 11	Exclusion - Asbestos Or Asbestos Products
BO 60 04 01 11	Exclusion - Punitive Damages
BP 05 17 01 06	Exclusion - Silica Or Silica-Related Dust
BO 60 84 05 16	Exclusion - Unmanned Aircraft
BP 05 77 01 06	Fungi Or Bacteria Exclusion (Liability)
BO 60 52 01 11	Identity Recovery Coverage - Identity Theft Case Management Service And Expense Reimbursement
BO 60 03 01 11	Lead Liability Exclusion
BO 01 25 03 15	Minnesota Changes
BO 60 37 05 16	Property Ultra Plus
BP 04 56 07 13	Utility Services - Direct Damage
BP 04 56 SC 05 16	Utility Services - Direct Damage Schedule
BP 04 57 07 13	Utility Services - Time Element
BP 04 57 SC 05 16	Utility Services - Time Element Schedule
ML 7000 MN 02 19	Wadena Insurance Company - Amendatory Endorsement



**BUSINESSOWNERS
DECLARATIONS
ENDORSEMENT SCHEDULE**

Policy No: WOP5335
Policy Period:
From 05/07/2019 to 05/07/2020

ENDORSEMENT NUMBER AND EDITION DATE	ENDORSEMENT TITLE
BP 04 53 07 13	Water Back-Up And Sump Overflow
BP 04 53 SC 01 14	Water Back-Up And Sump Overflow Schedule



BUSINESSOWNERS DECLARATIONS

Policy No: WOP5335
 Policy Period:
 From 05/07/2019 to 05/07/2020

SECTION I - PROPERTY

Coverage is provided only where a premium or Limit of Insurance is shown.

Loc. No.	Location	Territory	Protection Class
1	2100 N SNELLING STE 171, ROSEVILLE, MN 55113	706	02

Loc. 1 - Deductibles (Apply Per Occurrence)

Property Deductible	Optional Coverage Deductible*	Windstorm or Hail Deductible
\$500	\$500	N/A

*Optional Coverage Deductible applies to Employee Dishonesty, Forgery Or Alteration, Money & Securities and Outdoor Signs.

Loc. 1 - Additional/Optional Property Coverages Premises Level

Coverage	Premium
Business Income From Dependent Properties* - \$10,000	Included
Secondary Dependent Properties - Included	
Equipment Breakdown	\$25
Property Ultra Plus	\$125
Water Back-Up and Sump Overflow*	Included
Additional/Optional Property Coverages Premises Level Premium	\$150

*Base limit included in an enhancement or PAK endorsement.



**BUSINESSOWNERS
DECLARATIONS
SECTION I - PROPERTY**

Policy No: WOP5335
Policy Period:
From 05/07/2019 to 05/07/2020

Bldg. No. 1 **Year Built** 1990 **Construction** Non-Combustible **Sprinkler** No **Occupancy** Occupant

Class Code 71332 **Class Description** Barber Shops

Bldg. 1 - Property

	Limit of Insurance	Valuation	Automatic Incr. Bldg Limit	BPP- Seasonal Incr.	Premium
Business Personal Property	\$11,000	Replacement Cost	NA	25%	\$65
Total Building and Business Personal Property Premium					\$65

Bldg. 1 - Additional/Optional Property Coverages Building Level

Coverage	Premium
Utility Services - Direct Damage*	Included
Utility Services - Time Element*	Included
Total Additional/Optional Property Coverages Building Level Premium	\$0

*Base limit included in an enhancement or PAK endorsement.

Policy-Wide Additional/Optional Property Coverages

Coverage	Premium
Computer Fraud and Funds Transfer Fraud*	Included
Identity Recovery	Included
Total Policy-Wide Additional/Optional Property Coverages Premium	\$0

*Base limit included in an enhancement or PAK endorsement.



BUSINESSOWNERS DECLARATIONS

Policy No: WOP5335
Policy Period:
From 05/07/2019 to 05/07/2020

SECTION II - LIABILITY

Coverage is provided only where a premium or Limit of Insurance is shown.

LIABILITY AND MEDICAL EXPENSES COVERAGES AND LIMITS

Policy-Wide Liability Coverages	Limit Of Insurance	Advanced Premium
Liability And Medical Expenses	\$1,000,000 Per Occurrence	
Medical Expenses	\$5,000 Per Person	
Damage To Premises Rented To You	\$100,000 Any One Premise	
Other Than Products/Completed Operations Aggregate	\$2,000,000	
Products/Completed Operations Aggregate	\$2,000,000	
(This coverage does not apply to Professional Liability.)		
TOTAL ADVANCED LIABILITY PREMIUM		\$38

LIABILITY EXPOSURE BASIS (All classifications based on payroll or sales are subject to audit.)

Loc #	Bldg #	Class Code	Classification	Estimated Premium Basis
1	1	71332	Barber Shops	\$11,000 (L)

Key to premium basis: (S) Sales, (P) Payroll and (L) Limit of Insurance

ADDITIONAL LIABILITY COVERAGES

Coverages Applicable Per Policy

Coverage	Premium
Additional Insured - Managers Or Lessors Of Premises	\$80
Barber Shops And Hair Salons Professional Liability - 1 Barbers	\$26
Employment Practices Liability Coverage	\$50

TOTAL ADDITIONAL LIABILITY COVERAGES PREMIUM \$156



Policy No: WOP5335

Agent No: 660019

**POLICYHOLDER DISCLOSURE
NOTICE OF TERRORISM
INSURANCE COVERAGE**

Coverage for acts of terrorism is included in your policy. You are hereby notified that under the Terrorism Risk Insurance Act, as amended in 2015, the definition of act of terrorism has changed. As defined in Section 102(1) of the Act: The term "act of terrorism" means any act or acts that are certified by the Secretary of the Treasury, in consultation with the Secretary of Homeland Security, and the Attorney General of the United States - to be an act of terrorism; to be a violent act or an act that is dangerous to human life; property or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of certain air carriers or vessel or the premise of a United States mission; and to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion. Under your coverage, any losses resulting from certified acts of terrorism may be partially reimbursed by the United States Government under a formula established by the Terrorism Risk Insurance Act, as amended. However, your policy may contain other exclusions which might affect your coverage, such as an exclusion for nuclear events. Under the formula, the United States Government generally reimburses 85% through 2015; 84% beginning on January 1, 2016; 83% beginning on January 1, 2017; 82% beginning on January 1, 2018; 81% beginning on January 1, 2019; and 80% beginning on January 1, 2020; of covered terrorism losses exceeding the statutorily established deductible paid by the insurance company providing the coverage. The Terrorism Risk Insurance Act, as amended, contains a \$100 billion cap that limits U.S. Government reimbursement as well as insurer's liability for losses resulting from certified acts of terrorism when the amount of such losses exceeds \$100 billion in any one calendar year. If the aggregate insured losses for all insurers exceed \$100 billion, your coverage may be reduced.

The portion of your annual premium that is attributable to coverage for acts of terrorism is \$0.00, and does not include any charges for the portion of losses covered by the United States Government under the Act.

I ACKNOWLEDGE THAT I HAVE BEEN NOTIFIED THAT UNDER THE TERRORISM RISK INSURANCE ACT, AS AMENDED, ANY LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM UNDER MY POLICY COVERAGE MAY BE PARTIALLY REIMBURSED BY THE UNITED STATES GOVERNMENT AND MAY BE SUBJECT TO A \$100 BILLION CAP THAT MAY REDUCE MY COVERAGE, AND I HAVE BEEN NOTIFIED OF THE PORTION OF MY PREMIUM ATTRIBUTABLE TO SUCH COVERAGE.

 Policyholder/Applicant's Signature

 Print Name

 Date



**IMPORTANT NOTICE
CHANGE OF COMPANY ADDRESS**

IMT Insurance and Wadena Insurance Companies have moved to:

**7825 Mills Civic Parkway
West Des Moines, Iowa 50266**

The new address is reflected in various forms and notices that may be included in your renewed policy.

Although our address is changing, our contact information remains the same:

Phone: 800-274-3531

Website: imtins.com

MINNESOTA FRAUD STATEMENT

Any person who files a claim with intent to defraud or helps commit a fraud against an insurer is guilty of a crime.

POLICY NUMBER: WOP5335

BUSINESSOWNERS**BO 08 01 07 13****THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

BARBER SHOPS AND HAIR SALONS PROFESSIONAL LIABILITY

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM**SCHEDULE**

Limits Of Liability - Professional Liability Only	
Per Occurrence Limit	\$1,000,000
Aggregate Limit	\$2,000,000
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

Section II - Liability is amended as follows:

A. For the insurance provided by this endorsement, all provisions under Paragraph A.1. **Business Liability** will also apply to other injury.

B. Paragraph A. **Coverages** also applies to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or failure to render "barber shop or hair salon services" in connection with the operation of your business as a barber shop or hair salon.

C. With respect to the coverage provided by this endorsement, Paragraph B. **Exclusions** is amended as follows:

1. Paragraph 1.b. **Contractual Liability** is replaced by the following:

This insurance does not apply to:

b. "Bodily injury", "property damage", "personal and advertising injury" or other injury for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

2. The following exclusions do not apply:

- a.** Paragraph 1.j. **Professional Services**;
- b.** Paragraph 1.k.(6) **Damage To Property**; and
- c.** Paragraph 1.m. **Damage To Your Work**.

3. The following exclusions are added:

This insurance does not apply to "bodily injury", "property damage", "personal and advertising injury" or other injury arising out of:

- a.** The violation of any statute, or governmental rule or regulation; however, this exclusion does not apply to the failure to perform a predisposition of skin test.
- b.** The rendering or failure to render any professional service, treatment, advice or instruction, except for "barber shop or hair salon services".

This exclusion applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved that which is described in Paragraph a. or b.

D. Paragraph C. **Who Is An Insured** is amended as follows:

1. Paragraph 2.a. is replaced by the following:

2. Each of the following is also an insured:

- a.** Your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However,

none of these "employees" is an insured for:

(1) "Bodily injury", "personal and advertising injury" or other injury:

(a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), or to a co-"employee" while that co-"employee" is either in the course of his or her employment or performing duties related to the conduct of your business;

(b) To the spouse, child, parent, brother or sister of that co-"employee" as a consequence of Paragraph **(1)(a)** above;

(c) For which there is any obligation to share damages with or repay someone else who must pay damages of the injury described in Paragraph **(1)(a)** or **(1)(b)**; or

(2) "Bodily injury", "property damage", "personal and advertising injury" or other injury arising out of his or her providing or failing to provide professional services. However, your "employees" are insureds with respect to their providing or failing to provide "barber shop or hair salon services" in connection with the operation of your business as a barber shop or hair salon.

(3) "Property damage" to property:

(a) Owned, occupied or used by; or

(b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;

you, any of your "employees", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

2. The following is added to Paragraph 2.:

- e.** Any operator who rents or leases from the insured booth space, chairs or any portion of your premises for the purpose of conducting "barber shop or hair salon services" and any "employee" of such operator, but only with respect to liability arising out of such services.

E. For the insurance provided by this endorsement, Paragraph D. Liability And Medical Expenses Limits Of Insurance is replaced by the following:

1. The Limits Of Insurance shown in the Schedule and the rules below fix the most we will pay regardless of the number of:

a. Insureds;

b. Claims made or "suits" brought; or

c. Persons or organizations making claims or bringing "suits".

2. Subject to the Aggregate Limit Of Insurance shown in the Schedule, the most we will pay for the sum of all damages because of all "bodily injury", "property damage", or all other injury arising out of any one "occurrence", or "personal and advertising injury" sustained by any one person or organization, is the per "occurrence" limit shown in the Schedule.

3. The Limits Of Insurance shown in the Schedule apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

F. For the coverage provided by this endorsement, Paragraph F. Liability And Medical Expenses Definitions is amended as follows:

1. The definition of "occurrence" is amended to include any act or omission arising out of the rendering of or failure to render "barber shop or hair salon services".

2. The following definition is added:

"Barber shop or hair salon services" means:

a. Haircutting, hairstyling, hair dyeing, hair trimming, hair shaving, hair conditioning, hair shampooing; or

b. Advice or instruction for the purpose of appearance or personal grooming or therapy in connection with any of the services described in **a.** above.

However, "barber shop or hair salon services" does not include:

a. The removal of, or the attempted removal of, hair by electrolysis;

b. Hair implanting or hair transplanting or any attempt at these; or

- c. The use of any dye or coloring to eyelashes or eyebrows except mascara or eyebrow pencils.

POLICY NUMBER: WOP5335

BUSINESSOWNERS**BO 60 37 05 16****THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****PROPERTY ULTRA PLUS**

This endorsement modifies insurance provided under the following.

BUSINESSOWNERS COVERAGE FORM**SCHEDULE**

Premises Number	Premises Address		
1	2100 N SNELLING STE 171, ROSEVILLE, MN 55113		
Coverage		Limit Of Insurance	Page
Accounts Receivable:			
On Premises		\$25,000	6
Off Premises		\$5,000	6
Brands And Labels		\$10,000	6
Business Income From Dependent Properties (Including coverage for Secondary Dependent Properties)		\$10,000	4
Claims Expense		\$10,000	4
Computer Fraud And Funds Transfer Fraud		\$5,000 Included in Endorsement BP 05 47	
Credit Card Receipts		\$2,500	6
Employee Dishonesty		\$5,000	7
Extended Business Income		90 Days	3
Fine Arts Coverage		\$10,000	4
Fire Department Service Charge		\$5,000	3

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BO 60 37 05 16

OISO Properties, Inc.

Page 1 of 7

Coverage	Limit Of Insurance	Page
Fire Extinguisher Systems Recharge Expense	\$10,000	4
Forgery Or Alteration	\$5,000	3
Jewelry, Watches, Etc. - Theft Limitation	\$5,000	3
Leased Gap Coverage - Office Equipment	Up To Business Personal Property Limit	7
Lock Replacement	\$5,000	4
Money And Securities: Inside The Premises	\$25,000	7
Outside The Premises	\$5,000	7
Money Orders And Counterfeit Money	\$5,000	3
Newly Acquired Or Constructed Property: Building Coverage Extension	\$500,000	5
Business Personal Property Coverage Extension	\$250,000	5
Period Of Coverage Extension	60 Days	5
Ordinance Or Law (If Building Coverage is provided on premises): Demolition Cost And Increased Cost Of Construction Coverage For Loss To Undamaged Portion Of The Building	Not Applicable	
Outdoor Property: Per Occurrence	\$10,000	5
Per Tree, Shrub Or Plant	\$1,000	5
Outdoor Signs	\$10,000	7
Personal Effects	\$10,000	6
Personal Property In Transit	\$10,000	6
Personal Property Off-premises	\$25,000	5
Pollutant Clean-up And Removal	\$25,000	3
Premises Boundary Redefined - Broadened To 1,000 Feet	Included	3
Reward Payment	\$10,000	4
Salesperson's Samples	\$10,000	5
Unauthorized Business Card Use	\$5,000	5
Utility Service (Provides Water, Communication & Power Supply Services): Direct Damage	\$10,000 Included in Endorsement BP 04 56	
Time Element (Includes Wastewater Removal Property Coverage)	\$10,000 Included in Endorsement BP 04 57	
Valuable Papers And Records On Premises	\$25,000	6
Off Premises	\$10,000	6
Water Back-up And Sump Overflow: Covered Property Annual Aggregate	Included in Endorsement BP 04 53 \$10,000	
Business Income And Extra Expense Annual Aggregate	\$5,000	
The Schedule above is a summary of the Coverages and the Limits Of Insurance provided by the Businessowners Property Ultra Plus. If higher limits are purchased, the Limit Of Insurance will be shown on the Declarations or on the endorsement referenced for the coverage.		

SECTION I - PROPERTY

With respect to coverage provided by this endorsement, the provisions of **Section I - Property**, including **Paragraph D. Deductibles**, of the **Businessowners Coverage Form** apply, unless modified by this endorsement. The coverage provided by this endorsement applies separately to each premises shown in the Schedule above.

Section I - Property is amended as follows:

A. Premises Boundary Redefined - Broadened To 1,000 Feet

With respect to the coverage provided by this endorsement, any reference to the distance limitation of within 100 feet of the buildings or structures or within 100 feet of the premises described in the Declarations is amended to read within 1,000 feet of the buildings or structures or within 1,000 feet of the premises described in the Schedule.

B. Jewelry, Watches, Etc. - Theft Limitation

With respect to the coverage provided by this endorsement, **Paragraph 4.c.(2) Limitations** is replaced by the following:

- (2) Jewelry, watches, watch movements, jewels, pearls, precious and semiprecious stones, bullion, gold, silver, platinum and other precious alloys or metals is limited to the **Jewelry, Watches, Etc. - Theft Limitation** limit shown in the Schedule. This limit does not apply to jewelry and watches worth \$100 or less per item.

C. With respect to the coverage provided by this endorsement, Paragraph 5. Additional Coverages under A. Coverages is amended as follows:

1. Fire Department Service Charge

Paragraph c. Fire Department Service Charge is replaced by the following:

c. Fire Department Service Charge

When the fire department is called to save or protect Covered Property from a Covered Cause of Loss, we will pay up to the **Fire Department Service Charge Limit Of Insurance** shown in the Schedule for service at each premises described in the Schedule, unless a different limit is shown in the Declarations. Such limit is the most we will pay for regardless of the number of responding fire departments or fire

units, and regardless of the number or types of services performed.

This Additional Coverage applies to your liability for fire department service charges:

(1) Assumed by contract or agreement prior to loss; or

(2) Required by local ordinance.

2. Extended Business Income

The number of consecutive days for item **f.(2)(a)(ii)ii. under Extended Business Income** has been increased to the number of days shown on the Schedule under **Extended Business Income**, unless a greater number of consecutive days is shown in the Declarations.

3. Pollutant Clean-up And Removal

The last paragraph of item **h. Pollutant Clean-up And Removal** is replaced by the following:

The most we will pay for each location described in the Schedule under this Additional Coverage is the **Pollutant Clean-up And Removal Limit Of Insurance** shown on the Schedule for the sum of all such expenses arising out of Covered Causes of Loss occurring during each separate 12-month period of this policy.

4. Money Orders And "Counterfeit Money"

The last paragraph of item **j. Money Orders And "Counterfeit Money"** is replaced by the following:

The most we will pay for any loss under this Additional Coverage is the **Money Orders And "Counterfeit Money" Limit Of Insurance** shown in the Schedule.

5. Forgery Or Alteration

Paragraph k.(4) Forgery Or Alteration is replaced by the following:

- (4) The most we will pay for any loss, including legal expenses, under this Additional Coverage is the **Forgery Or Alteration Limit Of Insurance** shown in the Schedule, unless a higher Limit Of Insurance is shown in the Declarations.

6. Business Income From Dependent Properties

The last paragraph of item m.(1) under **Business Income From Dependent Properties** is replaced by the following:

The most we will pay under this Additional Coverage is the Business Income From Dependent Properties Limit Of Insurance shown in the Schedule, unless a higher Limit Of Insurance is indicated in the Declarations.

7. Fire Extinguisher Systems Recharge Expense

Paragraph o.(3) under **Fire Extinguisher Systems Recharge Expense** is replaced by the following:

- (3) The most we will pay under this Additional Coverage in any one occurrence is the Fire Extinguisher Systems Recharge Expense Limit Of Insurance shown in the Schedule.

D. With respect to the coverage provided by this endorsement, the following items are added to Paragraph A.5. Additional Coverages:

s. Claims Expense

We will pay for the reasonable costs you incur, as required by policy conditions, after a covered property loss. This includes the cost of taking inventory, making appraisals and preparing other data to determine the extent of your loss.

We will not pay for fees or expenses you incur from independent or public insurance adjusters or for expenses related to claims not covered by this policy.

The most we will pay for any loss under this Additional Coverage is the Claims Expense Limit Of Insurance shown in the Schedule.

t. Fine Arts Coverage

We will pay for direct loss or damage to Fine Arts, whether owned by you or others, and in your care, custody or control.

Fine arts includes, but is not limited to antiques, paintings, etchings, drawings, tapestries, sculptures and fragile property such as porcelains, china and marble.

The most we will pay for loss in any one occurrence under this Additional Coverage is the Fine Arts Limit Of Insurance shown in the Schedule at each premises listed in the Schedule. Our payment for loss of or damage

to personal property of others will only be for the account of the owner of the property.

The value of fine arts will be the least of the following amounts:

- (1) The actual cash value of that property at the time of the loss;
- (2) The cost of reasonably restoring that property to its condition immediately before loss; or
- (3) The cost of replacing that property with substantially identical property.

In the event of loss, the value of property will be determined as of the time of loss.

In case of loss to any part of a pair or set we will:

- (1) Repair or replace any part to restore the pair or set to its value before the loss; or
- (2) Pay the difference between the value of the pair or set before and after the loss.

u. Lock Replacement

We will pay the necessary expenses you incur to replace or rekey locks made necessary due to theft or unauthorized copying of keys, damage to door locks caused by covered theft loss or any other legitimate security concern caused in a covered theft loss.

This insurance does not apply to loss caused by vandalism, wear and tear, or mysterious disappearance of keys.

The most we will pay for loss or damage in any one occurrence under this Additional Coverage is the Lock Replacement Limit Of Insurance shown in the Schedule.

We will not pay for the necessary expenses until the amount of the necessary expenses exceed \$50 for each occurrence.

v. Reward Payment

We will pay for rewards to any person or persons, other than you, your officers, your partners or your employees, for information leading to the arrest and conviction of the person(s) who caused the loss covered under this policy.

The most we will pay per occurrence under this Additional Coverage, regardless of the number of persons involved in providing information, is the Reward Payment Limit Of Insurance shown in the Schedule.

w. Salesperson's Samples

We will pay for loss or damage to samples of your stock in trade and similar property of others, while such property is in the care, custody or control of your salesperson, sales agents, or yourself while acting as a salesperson and while more than 1,000 feet from the premises described in the Schedule.

The most we will pay per occurrence under this Additional Coverage is the Salesperson's Samples Limit Of Insurance shown in the Schedule.

x. Unauthorized Business Card Use

We will pay for your loss that results directly from the theft or unauthorized use of credit, debit or charge cards issued in your business name and used solely for business purposes. However, we will not pay for theft or unauthorized use of credit, debit or charge cards entrusted to others or your employees.

The most we will pay per occurrence under this Additional Coverage is the Unauthorized Business Card Use Limit Of Insurance shown on the Schedule.

E. With respect to the coverage provided by this endorsement, Paragraph 6. Coverage Extensions under A. Coverages is amended as follows:

1. Newly Acquired Or Constructed Property

a. Building Coverage Extension

The last paragraph of item a.(1) Buildings is replaced by the following:

The most we will pay for loss or damage under this Extension is the Newly Acquired Or Constructed Property - Building Coverage Extension Limit Of Insurance shown in the Schedule.

b. Business Personal Property Coverage Extension

The last paragraph of item a.(2) Business Personal Property is replaced by the following:

The most we will pay for loss or damage under this Extension is the Newly Acquired Or Constructed Property - Business Personal Property Coverage Extension Limit Of Insurance shown in the Schedule.

c. Period Of Coverage Extension

The number of days for item a.(3)(b) Period Of Coverage has been increased to the number of days shown on the Schedule under Newly Acquired Or Constructed Property - Period Of Coverage Extension.

2. Personal Property Off-premises

Paragraph b. Personal Property Off-premises is replaced by the following:

b. Personal Property Off-premises

You may extend the insurance provided by this policy to apply to your Covered Property, other than "money" and "securities", "valuable papers and records", or accounts receivable, while it is at a premises you do not own, lease or operate. The most we will pay for loss or damage under this Extension is the Personal Property Off-premises Limit Of Insurance shown in the Schedule.

3. Outdoor Property

Paragraph c. Outdoor Property is deleted and replaced by the following:

c. Outdoor Property

You may extend the insurance provided by this policy to apply to your outdoor fences, radio and television antennas (including satellite dishes), signs (other than signs attached to buildings), trees, shrubs and plants (other than trees, shrubs or plants which are part of a vegetated roof), including debris removal expense. Loss or damage must be caused by or result from any of the following causes of loss:

- (1) Fire;
- (2) Lightning;
- (3) Explosion
- (4) Riot or Civil Commotion; or
- (5) Aircraft

The most we will pay for loss or damage under this Extension is the Outdoor Property Per Occurrence Limit shown in the Schedule, unless a higher Limit Of Insurance is shown in the Declarations. However, we will not pay more than the Outdoor Property Per Tree, Shrub Or Plant Limit shown in the Schedule for any one tree, shrub or plant.

Subject to all aforementioned terms and limitations of coverage, this Coverage Extension includes the expense of removing from the described premises the debris of trees, shrubs and plants which are the property of others, except in the situation in which you are a tenant and such property is owned by the landlord of the described premises.

4. Personal Effects

The last paragraph of item d. **Personal Effects** is replaced by the following:

The most we will pay for loss or damage under this Extension at each premises listed in the Schedule is the Personal Effects Limit Of Insurance shown in the Schedule.

5. Valuable Papers And Records

Paragraph e.(3) **Valuable Papers And Records** is replaced by the following:

- (3) The most we will pay under this Coverage Extension for loss or damage to "valuable papers and records" in any one occurrence at the premises described in the Schedule on this endorsement is the Valuable Papers And Records On Premises Limit shown in the Schedule, unless a higher Limit Of Insurance is shown in the Declarations.

For "valuable papers and records" not at the described premises, the most we will pay is the Valuable Papers And Records Off Premises Limit shown in the Schedule.

6. Accounts Receivable

Paragraph f.(2) **Accounts Receivable** is replaced by the following:

- (2) The most we will pay under this Coverage Extension for loss or damage in any one occurrence at the premises described in the Schedule on this endorsement is the Accounts Receivable On Premises Limit

shown in the Schedule, unless a higher Limit Of Insurance is shown in the Declarations.

For accounts receivable not at the described premises, the most we will pay is the Accounts Receivable Off Premises Limit shown in the Schedule.

- F. With respect to the coverage provided by this endorsement, the following items are added to Paragraph A.6. **Coverage Extensions:**

h. Brands And Labels

If branded or labeled merchandise that is Covered Property is damaged by a Covered Cause of Loss, we may take all or part of the property at an agreed or appraised value. If so, you may:

- (1) Stamp the word salvage on the merchandise or its containers, if the stamp will not physically damage the merchandise; or
- (2) Remove the brands or labels, if doing so will not physically damage the merchandise. You must relabel the merchandise or its containers to comply with the law.

We will pay reasonable costs you incur to perform the activity described in h.(1) or h.(2) above. The most we will pay for these costs under this Coverage Extension is the Brands And Labels Limit Of Insurance shown in the Schedule.

i. Credit Card Receipts

You may extend the insurance that applies to Business Personal Property to apply to all sums due to you from the payors of credit card charge receipts, including your normal collection expenses, provided you are unable to collect from them due to direct loss or damage to your credit card receipts from a Covered Cause of Loss.

The most we will pay per occurrence for this Coverage Extension is the Credit Card Receipts Limit Of Insurance shown in the Schedule.

j. Personal Property In Transit

You may extend the insurance provided by this policy to apply to your Covered Property, other than "money" and "securities",

“valuable papers and records”, or accounts receivable, while it is in the course of transit. The most we will pay for loss or damage under this Extension is the Personal Property In Transit Limit Of Insurance shown in the Schedule.

G. With respect to the coverage provided by this endorsement, the following is added to Paragraph E.5. Property Loss Conditions - Loss Payment:

i. Lease Gap Coverage - Office Equipment

Applicable to covered Business Personal Property you lease or rent from others, in the event of a covered loss to leased or rented office equipment, our limit of liability will be the greater of:

- (1) The amount due under the terms of the lease or rental agreement to which your covered Business Personal Property is subject; or
- (2) The cost to repair or replace, with property of like kind and quality.

H. With respect to the coverage provided by this endorsement, Section G. Optional Coverages is amended as follows:

1. The introductory paragraph is deleted and replaced with the following:

If shown as applicable in the Schedule of this endorsement, the following Optional Coverages also apply. If higher limits are provided, they will be shown on the Declarations under the designated coverage. These coverages are subject to the terms and conditions applicable to property coverage in this policy, except as provided below:

2. Outdoor Signs

Paragraph 1.d. **Outdoor Signs** is replaced by the following:

- d. The most we will pay for loss or damage in any one occurrence is the Limit Of Insurance for Outdoor Signs shown in the Schedule, unless a higher Limit Of Insurance is shown in the Declarations.**

3. Money And Securities

Paragraph 2.c. **Money And Securities** is replaced by the following:

- c. The most we will pay for loss in any one occurrence is:**

(1) The Money And Securities - Inside The Premises Limit Of Insurance shown in the Schedule, unless a higher limit is shown in the Declarations, for “money” and “securities” while:

- (a) In or on the premises described in the Schedule on this endorsement; or**
- (b) Within a bank or savings institution; and**

(2) The Money And Securities - Outside The Premises Limit Of Insurance shown in the Schedule, unless a higher limit is shown in the Declarations, for “money” and “securities” while anywhere else.

4. Employee Dishonesty

Paragraph 3.c. **Employee Dishonesty** is replaced by the following:

- c. The most we will pay for loss or damage in any one occurrence is the Limit Of Insurance for Employee Dishonesty shown in the Schedule, unless a higher limit is shown in the Declarations.**

SECTION III - COMMON POLICY PROVISIONS

I. The following policy condition is added to Section III - Common Policy Conditions (Applicable To Section I - Property And Section II - Liability):

M. Insurance Under Same Coverage With Different Limits

If more than one endorsement has the same coverage, but different limits, the endorsement with the highest limit will be the most we will pay for the covered loss. The limits may not be combined to obtain a higher limit of insurance.

POLICY NUMBER: WOP5335

BUSINESSOWNERS**BO 60 46 01 11****THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**EMPLOYMENT PRACTICES LIABILITY
INSURANCE COVERAGE ENDORSEMENT
CLAIMS-MADE AND REPORTED COVERAGE BASIS**

SCHEDULE**NOTICE**

EXCEPT TO SUCH EXTENT AS MAY OTHERWISE BE PROVIDED HEREIN, THIS EPL COVERAGE IS LIMITED TO LIABILITY FOR ONLY THOSE CLAIMS OR SUITS THAT ARE FIRST MADE AGAINST THE INSURED(S) DURING THE EPL COVERAGE PERIOD AND REPORTED IN WRITING TO THE INSURER PURSUANT TO THE TERMS HEREIN. VARIOUS PROVISIONS IN THIS EPL COVERAGE RESTRICT COVERAGE. PLEASE READ THE ENTIRE EPL COVERAGE FORM CAREFULLY TO DETERMINE RIGHTS, DUTIES AND WHAT IS AND IS NOT COVERED.

THE LIMIT OF LIABILITY AVAILABLE TO PAY JUDGMENTS OR SETTLEMENTS UNDER THIS EPL COVERAGE SHALL BE REDUCED BY AMOUNTS INCURRED FOR DEFENSE COSTS. AMOUNTS INCURRED FOR DEFENSE

EPL Coverage Period:	From: 05/07/2019 To: 05/07/2020	At 12:01 A.M. Standard Time at your mailing address shown on the Declarations page of this policy.
EPL Aggregate Limit of Liability:	\$100,000	Annual aggregate for all "loss" combined, including "defense costs".
EPL Deductible Amount:	\$10,000	For "loss" arising from claims or suits alleging the same "wrongful employment act" or "related wrongful employment acts".
EPL Retroactive Date:	05/07/2018	If no date is shown, "we" will consider the EPL Retroactive Date to be the date of organization of the "named insured". The EPL Retroactive Date will remain the same through all subsequent renewals. No change will be made to the EPL Retroactive Date unless at the sole request of the insured.
Third Party Violations		If box at left is checked, coverage for "third party violations" applies

This insurance does not apply to "loss" arising out of a "wrongful employment act" that arises out of incidents or circumstances of which "you" had knowledge prior to the effective date of this EPL Coverage or the first EPL Coverage Form issued by "us" of which this EPL Coverage is an uninterrupted renewal.

Throughout this Coverage Endorsement (hereinafter referred to as "EPL Coverage"), the words "you" and "your" refer to the "named insured(s)" shown in the Declarations of this policy and any other person(s) or organization(s) qualifying as a "named insured" under this EPL Coverage. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under SECTION III. WHO IS AN INSURED.

Other words and phrases that appear in "quotations" have special meaning. Refer to SECTION VII. DEFINITIONS.

The terms and conditions of the Cancellation Clause of the Common Policy Conditions and any amendment to such terms incorporated by endorsement are hereby incorporated herein and shall apply to coverage as is afforded by this EPL Coverage, unless specifically stated otherwise in an endorsement(s) attached hereto.

SECTION I. WHAT IS COVERED**A. Insuring Agreement**

1. "We" shall pay those "losses" arising out of an "insured's" "wrongful employment act" (other than a "third party violation") against "your" "employees", "recognized volunteers" and applicants for employment to which this insurance applies.
2. If coverage for "third party violations" is shown on the Schedule, then "we" shall pay those "losses" arising out of an "insured's" "third party violation".
3. For coverage to apply under this EPL Coverage, the "wrongful employment act" must commence or take place after the Retroactive Date, but before the end of the "EPL coverage period". If no Retroactive Date appears on the Schedule, then the Retroactive Date shall be the date of organization of the "named insured." A "claim" or "suit" for a "wrongful employment act" must be first made against "you" during the "EPL coverage period" or Extended Reporting Periods (if applicable) and reported to "us" pursuant to the terms of this EPL Coverage.
4. A "claim" or "suit" by a person or organization seeking damages will be deemed to have been made at the earlier of the following times:
 - a. When written notice of such "claim" or "suit" is received and recorded by any "insured" or by "us", whichever comes first; or
 - b. When "we" make any settlement in accordance with the terms of this EPL Coverage.

B. Defense

1. "We" have the right and duty to defend and appoint an attorney to defend any "claim" or "suit" brought against any "insured" for a "wrongful employment act" to which this insurance applies, even if the "claim" or "suit" is groundless or fraudulent.

At the time a "claim" or "suit" is first reported to "us", "you" may request that "we" appoint a defense attorney of "your" choice. "We" will give full consideration to any such request.

2. "We" have the right to investigate and settle any "claim" or "suit" that "we" believe is proper. "You" shall be entitled to consent to

such settlement, provided "your" consent is not unreasonably withheld and is provided as soon as practicable.

If "you" refuse to consent to any settlement that "we" recommend and that is acceptable to the claimant, then "our" liability under this EPL Coverage for such "claim" or "suit" shall not exceed the amount for which we could have settled had "your" consent not been withheld at the time of "our" recommendation. "You" shall thereafter negotiate and defend that "claim" or "suit" at "your" own cost and without "our" involvement.

3. "We" shall pay all reasonable costs "we" ask the "insured" to incur while helping "us" investigate or defend a "claim" or "suit". "We", however, will not pay more than \$250 per day for earnings lost by the "insured" because of time taken off from work.
4. "We" shall pay premiums for appeal bonds, or bonds to release property being used to secure a legal obligation, for a covered "suit". "We" shall only pay, however, for bonds valued up to "our" EPL Aggregate Limit of Liability. "We" shall have no obligation to appeal or to obtain these bonds.
5. Payments for "defense costs" are included within the EPL Aggregate Limit of Liability. They are not in addition to the EPL Aggregate Limit of Liability. "Our" duty to defend or to make payment of any "claim" or "suit" pursuant to Paragraphs 1. through 4. of this Clause B., ends after the EPL Aggregate Limit of Liability has been exhausted by payment of "loss", including "defense costs".
6. "We" shall pay all interest on that amount of any judgment within the EPL Aggregate Limit of Liability:

- a. Which accrues after entry of judgment; and
- b. Before "we" pay, offer to pay, or deposit in court that part of the judgment within the EPL Aggregate Limit of Liability.

These interest payments shall be in addition to and not part of the EPL Aggregate Limit of Liability.

C. Transfer of Control

1. "You" may take over control of any outstanding "claim" or "suit" previously

reported to “us”, but only if “we”, in “our” sole discretion, decide that you should, or if a court orders “you” to do so.

2. Notwithstanding Paragraph 1. of this Clause C., in all events, if the EPL Aggregate Limit of Liability is exhausted, “we” will notify “you” of all outstanding “claims” or “suits” and “you” will take over control of the defense. “We” will help transfer control of the “claims” and “suits” to “you”.
3. “We” shall take whatever steps are necessary to continue the defense of any outstanding “claim” or “suit” and avoid a default judgment during the transfer of control to “you”. If “we” do so, “we” shall not waive or give up any of “our” rights. “You” shall pay all reasonable expenses “we” incur for taking such steps after the EPL Aggregate Limit of Liability is exhausted.

SECTION II. EXCLUSIONS-WHAT IS NOT COVERED

This insurance does not apply to:

A. Criminal Acts

Any liability arising out of any dishonest, fraudulent, criminal, or malicious act by or at the direction of any “insured”. However, to the extent that a “claim” or “suit” is otherwise covered under this EPL Coverage “we” will defend a “claim” or “suit” asserting a dishonest, fraudulent, criminal or malicious act until such time as the “insured” is determined to have committed such dishonest, fraudulent, criminal or malicious act;

The “wrongful employment act(s)” of an “insured” shall not be imputed to any other “insured” for the purpose of determining the applicability of this Exclusion A.;

B. “Property Damage”

Any liability arising out of “property damage”;

C. “Bodily Injury”

Any liability arising out of “bodily injury”;

D. Worker’s Compensation, Social Security and Unemployment, Disability and Retirement Benefits

Any liability arising out of any obligation pursuant to any worker’s compensation, disability benefits, unemployment compensation, unemployment

insurance, retirement benefits, social security benefits or similar law. This exclusion, however, shall not apply to “loss” arising from a “claim” or “suit” for “retaliation”;

E. Contractual Liability

Any liability arising out of any actual or alleged contractual liability of any “insured” under any express contract or agreement. This exclusion, however, shall not apply to any liability the “insured” would have in the absence of such express contract or agreement;

F. ERISA, FLSA, NLRA, WARN, COBRA, and OSHA

Any liability for violation(s) of any of the responsibilities, obligations or duties imposed by the Employee Retirement Income Security Act of 1974, the Fair Labor Standards Act (except the Equal Pay Act), the National Labor Relations Act, the Worker Adjustment and Retraining Notification Act, the Consolidated Omnibus Budget Reconciliation Act, the Occupational Safety and Health Act, any rules or regulations of the foregoing promulgated thereunder, and amendments thereto or any similar federal, state, local or foreign statutory law or common law.

It is acknowledged that “claims” and “suits” for violation(s) of any of the responsibilities, obligations or duties imposed by “similar federal, state, local or foreign statutory law or common law,” as such quoted language is used in the immediately-preceding paragraph, include, without limitation, any and all “claims” and “suits” which in whole or in part allege, arise out of, are based upon, are attributable to, or are in any way related to any of the circumstances described in any of the following:

1. The refusal, failure or inability of any “insured(s)” to pay wages or overtime pay (or amounts representing such wages or overtime pay) for services rendered or time spent in connection with work related activities (as opposed to tort-based back pay or front pay damages for torts other than conversion);
2. Improper deductions from pay taken by any “insured(s)” from any “employee(s)” or purported employee(s); or
3. Failure to provide or enforce legally required meal or rest break periods;

Notwithstanding the foregoing, this Exclusion F. shall not apply to the extent that a “claim” or “suit” is for “retaliation”;

G. Prior Knowledge

Any liability arising out of incidents, circumstances or "wrongful employment acts", which an "insured"

1. Had knowledge of; or
2. Could have reasonably foreseen might result in a "claim" or "suit"

and which were known to the "insured" prior to the effective date of this EPL Coverage or the first EPL Coverage issued by "us" of which this EPL Coverage is an uninterrupted renewal;

H. Prior Notice

Any liability arising out of the facts alleged, or to the same or "related wrongful employment acts" alleged or contained in any "claim" or "suit" which has been reported, or in any circumstances of which notice has been given, under any policy of which this EPL Coverage is a renewal or replacement or which it may succeed in time;

I. Prior Litigation

Any liability arising out of any prior

1. Litigation; or
2. Administrative or regulatory proceeding or investigation

of which an "insured" had notice, or alleging the same or "related wrongful employment acts" alleged or contained in such pending or prior litigation or administrative or regulatory proceeding or investigation which the "insured" had knowledge of prior to the effective date of this EPL Coverage or the first EPL Coverage issued by "us" of which this EPL Coverage is an uninterrupted renewal.

SECTION III. WHO IS AN INSURED**A. Individual**

If "you" are shown in the Declarations of this policy as an individual, "you" and "your" spouse or "Domestic Partner" are "insureds", only for the conduct of a business of which "you" are the sole owner.

B. Corporation

If "you" are shown in the Declarations of this policy as a corporation or organization other than

a partnership, joint venture, or limited liability company, "you" and "your" "subsidiaries" are "insureds".

C. Partnership or Joint Venture

If "you" are shown in the Declarations of this policy as a partnership or joint venture, "you" are an "insured". "Your" members, partners or co-venturers and their spouses or "Domestic Partners" are also "insureds", but only for the conduct of "your" business.

D. Limited Liability Company

If "you" are shown in the Declarations of this policy as a limited liability company, "you" are an "insured." "Your" members are also "insureds", but only with respect to the conduct of "your" business. "Your" managers are "insureds", but only with respect to their duties as "your" managers.

E. Trusts

If "you" are shown in the Declarations of this policy as a trust, "you" are an "insured". "Your" trustees are also "insureds", but only with respect to their duties as trustees.

F. "Employees"

"Your" "employees", executive officers and directors are "insureds", only for the conduct of "your" business within the scope of their employment or their duties as executive officers or directors.

G. Extensions

1. Subject otherwise to the terms hereof, this EPL Coverage shall cover "loss" arising from any "claims" or "suits" made against the estates, heirs, or legal representative of deceased individual "insureds", and the legal representatives of individual "insureds", in the event of incompetency, who were individual "insureds" at the time the "wrongful employment acts", upon which such "claims" or "suits" are based, were committed.
2. Subject otherwise to the terms hereof, this EPL Coverage shall cover "loss" arising from all "claims" and "suits" made against the lawful spouse (whether such status is derived by reason of statutory law, common law or otherwise of any applicable jurisdiction in the world) or "Domestic Partner" of an individual

"insured", including a "claim" or "suit" that seeks damages recoverable from marital community property, property jointly held by the individual "insured" and the spouse or "Domestic Partner", or property transferred from the individual "insured" to the spouse or "Domestic Partner"; provided, however, that this extension shall not afford coverage for a "claim" or "suit" arising out of any "wrongful employment act" of the spouse or "Domestic Partner", but shall apply only to "claims" or "suits" arising out of any "wrongful employment acts" of an individual "insured", subject to this EPL Coverage's terms, conditions and exclusions.

SECTION IV. LIMIT OF LIABILITY (including "defense costs")

A. The EPL Aggregate Limit of Liability shown in the Schedule of this EPL Coverage and the information contained in this section limits the most "we" shall pay for all "loss" (other than post-judgment interest described in Section I., Clause B., Paragraph 6.) arising out of "claims" and "suits" first made against "insureds" during the "EPL coverage period" or Extended Reporting Periods (if applicable), regardless of:

1. The number of persons or organizations covered by this EPL Coverage; or
2. The number of "claims" made or "suits" brought; or
3. The length of the "EPL coverage period".

B. The EPL Aggregate Limit of Liability is the most "we" shall pay for all "losses" (other than post-judgment interest described in Section I., Clause B., Paragraph 6.), including amounts incurred for "defense costs".

C. The EPL Aggregate Limit of Liability for the Extended Reporting Periods (if applicable) shall be part of, and not in addition to the EPL Aggregate Limit of Liability for the "EPL coverage period".

D. All "claims" and "suits" arising from the same or "related wrongful employment acts" shall be treated as arising out of a single "wrongful employment act".

E. All "claims" or "suits" arising out of one "wrongful employment act" shall be deemed to be made on the date that the first such "claim" is made or "suit" is brought. All "claims" asserted in

a "class action suit" will be treated as arising out of a single "wrongful employment act".

F. Any "claim" or "suit" which is made subsequent to the "EPL coverage period" or Extended Reporting Periods (if applicable) which, pursuant to Section VI., Clause D., Paragraphs 3. and 4. is considered made during the "EPL coverage period" or Extended Reporting Periods (if applicable) shall also be subject to the one EPL Aggregate Limit of Liability stated in the Schedule of this EPL Coverage.

SECTION V. DEDUCTIBLE

"You" shall be responsible for the deductible amount shown in the Schedule of this EPL Coverage with respect to each "claim" and "suit" and "you" may not insure against it. A single deductible amount shall apply to "loss" arising from all "claims" and "suits" alleging the same "wrongful employment act" or "related wrongful employment acts". Expenses "we" incur in investigating, defending and settling "claims" and "suits" are included in the deductible. The deductible is not included within the EPL Aggregate Limit of Liability.

At our option, "we" may pay any part or all of the EPL Deductible Amount to effect settlement of any "claim" or "suit" and upon notification of the action taken, "you" shall promptly reimburse "us" for such part of the deductible that has been paid by "us".

SECTION VI. CONDITIONS

"We" have no duty to provide coverage under this EPL Coverage, unless there has been full compliance with all the Conditions contained in this EPL Coverage.

A. Assignment

The interest of any "insured" is not assignable. "You" cannot assign or transfer "your" interest in this EPL Coverage without "our" written consent attached to the EPL Coverage.

B. Bankruptcy or Insolvency

"Your" bankruptcy, insolvency or inability to pay, will not relieve "us" from the payment of any "claim" or "suit" covered by this EPL Coverage.

Under no circumstances will "your" bankruptcy, insolvency, or inability to pay require "us" to drop down, in any way replace, or assume any of "your" obligations with respect to the Deductible provisions of this EPL Coverage.

C. Coverage Territory

"We" cover "wrongful employment acts" anywhere in the world, but only if the "claim" is made and the "suit" is brought for such "wrongful employment act" in the United States of America, its territories and possessions, Puerto Rico, or Canada.

D. Duties in the Event of an Incident, "Claim" or "Suit"

1. If, during the "EPL coverage period", incidents or events occur which "you" reasonably believe may give rise to a "claim" or "suit" for which coverage may be provided hereunder, such belief being based upon either written notice from the potential claimant or the potential claimant's representative; or notice of a complaint filed with EEOC, DOL or OFCCP (or similar federal, state or local agency); or upon an oral "claim", allegation or threat, "you" shall give written notice to "us" as soon as practicable and either:

- a. Anytime during the "EPL coverage period"; or
- b. Anytime during the Extended Reporting Periods (if applicable).

2. If a "claim" is made or a "suit" is brought against any "insured", "you" must:

- a. Immediately record the specifics of the "claim" or "suit" and the date received; and
- b. Provide "us" with written notice, as described in Paragraph 3. of this Clause D., as soon as practicable.

3. Such written notice of "claim" or "suit" shall contain:

- a. The identity of the person(s) alleging a "wrongful employment act";
- b. The identity of the "insured(s)" who allegedly were involved in the incidents or events;
- c. The date the alleged incidents or events took place; and
- d. The written notice or a memorandum of the oral "claim", allegation or threat referred to above.

If written notice is given to "us" during the "EPL coverage period" or Extended Reporting Periods (if applicable), pursuant to the above

requirements, then any "claim" or "suit" which is subsequently made against any "insureds" and reported to "us" alleging, arising out of, based upon or attributable to such circumstances or alleging any "related wrongful employment act" to such circumstances, shall be considered made at the time such notice of such circumstances was first given.

4. If "you" submit written notice of a "claim" or "suit", pursuant to this Clause D., then any "claim" or "suit" that may subsequently be made against an "insured" and reported to "us" alleging the same or a "related wrongful employment act" to the "claim" or "suit" for which such notice has been given shall be deemed, for the purpose of this insurance, to have been first made during the "EPL coverage period" or Extended Reporting Period (if applicable) in effect at the time such written notice was first submitted to "us".

5. "You" and any other "insured" must:

- a. Immediately send "us" copies of any demands, notices, summonses or legal papers received in connection with any "claim" or "suit";
- b. Authorize "us" to obtain records and other information;
- c. Cooperate with "us" in the investigation, settlement or defense of the "claim" or "suit";
- d. Assist "us", upon "our" request, in the enforcement of any right against any person or organization which may be liable to the "insured" because of injury or damage to which this insurance may also apply;
- e. Take no action, or fail to take any required action, that prejudices the rights of the "insureds" or "us" with respect to such "claim" or "suit".

6. No "insureds" will, except at their own cost, voluntarily make a payment, assume any obligation, or incur any expense without "our" prior written consent.

E. Transfer of Rights of Recovery Against Others to "Us"

"You" may be able to recover all or part of a "loss" from someone other than "us". "You",

therefore, shall do all that is possible after a "loss" to preserve any such right of recovery. If "we" make a payment under this EPL Coverage, that right of recovery shall belong to "us". "You" shall do whatever is necessary, including signing documents, to help "us" obtain that recovery.

F. Extended Reporting Periods

1. You shall have the right to the Extended Reporting Periods described in Paragraph 2. of this Clause F., in the event that:

- a. "You" or "we" shall cancel this EPL Coverage;
- b. "You" or "we" shall refuse to renew this EPL Coverage; or
- c. "We" renew this EPL Coverage on an other than a claims-made basis or with a Retroactive Date later than the Retroactive Date shown on the Schedule of this EPL Coverage;

2. If an event as specified in Paragraph 1. of this Clause F. has occurred, "you" shall have the right to the following:

- a. An Automatic Extended Reporting Period of thirty (30) days after the effective date of cancellation or nonrenewal at no additional premium in which to give to "us" written notice of "claims" first made or "suits" first brought against the "insureds" during said Automatic Extended Reporting Period for any "wrongful employment acts" occurring before the end of the "EPL coverage period" and are otherwise covered by this EPL Coverage; and
- b. Upon payment of an additional premium of 100% of the full annual premium applicable to this EPL Coverage, a Supplemental Extended Reporting Period of one (1) year immediately following the effective date of cancellation or nonrenewal in which to give to "us" written notice of "claims" first made or "suits" first brought against the "insureds" during said Supplemental Extended Reporting Period for any "wrongful employment acts" occurring before the end of the "EPL coverage period" and are otherwise covered by this EPL Coverage.

To obtain the Supplemental Extended Reporting Period, "you" must request it in writing and pay the additional premium due,

within thirty (30) days of the effective date of cancellation or nonrenewal. The additional premium for the Supplemental Extended Reporting Period shall be fully earned at the inception of the Supplemental Extended Reporting Period. If "we" do not receive the written request as required, "you" may not exercise this right at a later date.

This insurance, provided during the Supplemental Extended Reporting Period, is excess over any other valid and collectible insurance that begins or continues in effect after the Supplemental Extended Reporting Period becomes effective, whether the other insurance applies on a primary, excess, contingent, or any other basis.

G. Change in Control of "Named Insured"

In the event of a "Transaction" then this EPL Coverage shall continue in full force and effect as to "wrongful employment acts" occurring prior to the effective time of the "Transaction", but there shall be no coverage afforded by any provision of this EPL Coverage for any actual or alleged "wrongful employment acts" occurring after the effective time of the "Transaction". This EPL Coverage may not be cancelled after the effective time of the "Transaction" and the entire premium for this EPL Coverage shall be deemed earned as of such time. "You" shall also have the right to the Extended Reporting Periods described in Clause F. of this Section VI.

"You" shall give "us" written notice of the "Transaction" as soon as practicable, but not later than thirty (30) days after the effective date of the "Transaction".

H. Legal Action Against "Us"

No person or organization has the right to join "us" as a party or otherwise bring "us" into a "suit" asking for damages from an "insured".

I. Other Insurance

Unless expressly written to be excess over other applicable insurance, it is intended that the insurance provided by this EPL Coverage shall be primary.

J. EPL Coverage Changes

This EPL Coverage contains all the agreements between "you" and "us" concerning this insurance. The first "named insured" in the Declarations of this policy is authorized to request

changes in this EPL Coverage. This EPL Coverage can only be changed by a written endorsement “we” issue and make part of this EPL Coverage.

K. Representations

Any and all relevant provisions of this EPL Coverage may be voidable by “us” in any case of fraud, intentional concealment, or misrepresentation of material fact by any “insured”.

L. Special Rights and Duties of the First “Named Insured”

“You” agree that when there is more than one person and/or entity covered under this EPL Coverage, the first “named insured” in the Declarations of this policy shall act on behalf of all “insureds” as to:

1. Giving of notice of a “claim” or “suit”;
2. Giving and receiving notice of cancellation or nonrenewal;
3. Payment of premiums and receipt of return premiums;
4. Acceptance of any endorsements issued to form a part of this EPL Coverage; or
5. Purchasing or deciding not to purchase the Supplemental Extended Reporting Period.

M. Separation of Insureds

Except with respect to the EPL Aggregate Limit of Liability and any rights or duties specifically assigned to the first “named insured” in Clause M. of this Section VI, this insurance applies:

1. As if each “named insured” were the only “named insured”; and
2. Separately to each insured against whom a “claim” or “suit” is made.

N. Tie-In of Limits

As respects any “claim” or “suit” in which at least one person/entity claimed against is an “insured” under this EPL Coverage and at least one person/entity claimed against is an insured under any other EPL Coverage issued to “you” by “us” (the “Other Policy”), the combined EPL Aggregate Limit of Liability under both this EPL Coverage and the Other Policy for all “losses” arising from such “claims” or “suits” combined shall not exceed the highest applicable limit of insurance under either this EPL Coverage or the Other Policy. This limitation shall apply even if

both this EPL Coverage and the Other Policy have been triggered due to a “claim” or “suit” made against the same person/entity but alleging “wrongful employment acts” both in his, her or its capacity as an insured under the “Other policy” and as an “insured” under this EPL Coverage.

O. Headings

The descriptions in the headings of this EPL Coverage are solely for convenience, and form no part of the terms and conditions of coverage.

SECTION VII. DEFINITIONS

- A. “Bodily injury” means physical injury, sickness, or disease, including death resulting therefrom.
- B. “Claim” means a written demand for monetary and non-monetary relief (including any request to toll or waive any statute of limitations). The term “claim” shall also mean an Equal Employment Opportunity Commission (EEOC), Department of Labor (DOL) or Office of Federal Contract Compliance Program (OFCCP) (or similar federal, state or local agency) proceeding or investigation commenced by the filing of a notice of charges, service of a complaint or similar document of which notice has been given to “you”. However, in no event, shall the term “claim” include any labor or grievance proceeding, which is subject to a collective bargaining agreement.
- C. “Class action suit” means any suit seeking certification or certified as a class action by a federal or state court.
- D. “Defense costs” means reasonable and necessary fees, costs and expenses consented to by “us” resulting solely from the investigation, adjustment, defense and appeal of a “claim” or “suit” against “you”. In no event shall “Defense Costs” include “your” or “our” routine on-going expenses, including, without limitation, the salaries of “your” or “our” “employees”, officers or staff attorneys.
- E. “Domestic partner” means any natural person legally recognized as a domestic or civil union partner under:
 1. The provisions of any applicable federal, state or local law; or
 2. The provisions of any formal program established by “you”.

F. “Employee” means an individual whose labor or service is engaged by and directed by “you” for remuneration, whether such individual is in a supervisory, co-worker or subordinate position or otherwise, including any part-time, seasonal, and temporary “employees”.

An individual who is an independent contractor or leased to “you” shall also be an “employee”. Independent contractors who do not provide ongoing and routine services solely for “you” shall not be considered “employees”, including but not limited to independent trade contractors (e.g. plumber, electrician).

G. “EPL coverage period” means the period commencing on the effective date shown in the Schedule of this EPL Coverage. This period ends on the earlier of the expiration date or the effective date of cancellation of this EPL Coverage. If “you” became an “insured” under this EPL Coverage after the effective date, the “EPL coverage period” begins on the date “you” became an “insured”.

H. “Loss(es)” means monetary amounts to which this insurance applies and which “you” are legally obligated to pay (including front pay and back pay), judgments, settlements, pre- and post-judgment interest on that part of any judgment paid by “us”, statutory attorney fees, and “defense costs”; however, “loss” shall not include:

1. Civil or criminal fines or penalties imposed by law;
2. Taxes;
3. Employment related benefits, stock options, perquisites, deferred compensation or any other type of compensation other than salary, wages or bonus compensation;
4. Any liability or costs incurred by any “insured” to modify any building or property in order to make said building or property more accessible or accommodating to any disabled person, or any liability or costs incurred in connection with any educational, sensitivity or other corporate program, policy or seminar; or
5. Matters which may be deemed uninsurable under the law pursuant to which this EPL Coverage shall be construed.

Where permitted by law, “loss” shall include punitive or exemplary damages imposed upon any

“insured” (subject to the policy’s other terms, conditions and exclusions).

I. “Named insured” means the person or organization designated in the Declarations of this policy.

J. “Property damage” means physical injury to, or destruction of, tangible property including the loss of use thereof, or loss of use of tangible property, which has not been physically injured or destroyed.

K. “Recognized volunteer” means an uncompensated individual who volunteers labor or services to “you”, but only when performing such labor or services at the request of and under the direction of “you”.

L. “Related wrongful employment act(s)” means “wrongful employment acts” which are the same, related or continuous, or “wrongful employment acts” which arise from a common nucleus of facts. “Claims” or “suits” can allege “related wrongful employment acts”, regardless of whether such “claims” or “suits” involve the same or different claimants, “insureds” or legal causes of actions.

M. “Retaliation” means a “wrongful employment act” of an “insured” alleged to be in response to, the actual or attempted exercise by an “employee” of any right that such “employee” has under the law. Provided, however, “retaliation” shall not include the “wrongful employment act” of an “insured” alleged to be in response to the threat of or the actual filing of any claim or suit under the Federal False Claims Act or any other federal, state, local or foreign “whistleblower law”.

N. “Subsidiary” means:

1. Any for-profit organization which, on or before the inception of the “EPL coverage period”, is more than fifty (50%) percent owned by the “named insured”, either directly or indirectly through one or more of its “subsidiaries”; or
2. A for-profit organization which becomes a “subsidiary” during the “EPL coverage period”, but only upon the condition that within ninety (90) days of its becoming a “subsidiary”, the “named insured” shall have provided “us” with full particulars of the new “subsidiary” and agreed to any additional premium or amendment of the provisions of this EPL Coverage required by “us” relating to such new “subsidiary”. Further, coverage as shall be afforded to the new “subsidiary” is conditioned upon the “named insured” paying when due

any additional premium required by “us” relating to such new “subsidiary”.

An organization becomes a “subsidiary” when the “named insured” owns more than fifty (50%) percent ownership interest in such “subsidiary”, either directly, or indirectly through one or more of its “subsidiaries”. An organization ceases to be a “subsidiary” when the “named insured” ceases to own more than a fifty (50%) percent ownership in such “subsidiary”, either directly, or indirectly through one or more of its “subsidiaries”.

In all events, coverage as is afforded under this EPL Coverage with respect to a “claim” made or “suit” brought against any “subsidiary” or an “insured” of any “subsidiary”, shall only apply to “wrongful employment act(s)” commenced or allegedly commenced after the effective time that such “subsidiary” became a “subsidiary”, and prior to the time that such “subsidiary” ceased to be a “subsidiary”.

O. “Suit” means a civil proceeding or an administrative proceeding seeking money damages, and includes an arbitration, mediation or any other alternative dispute resolution procedure seeking such damages, to which the “insured” must submit or may submit with “our” consent. “Suit” shall not include any civil proceeding or administrative proceeding arising from any labor or grievance dispute which is subject to a collective bargaining agreement.

P. “Third party violation” means any actual or alleged discrimination or sexual harassment against “your” customers, vendors or clients. “Third party violation” shall also include any of the following as it relates to such discrimination or sexual harassment:

1. Violation of an individual's civil rights;
2. Libel;
3. Slander;
4. Humiliation;
5. Mental anguish;
6. Infliction of emotional distress;
7. Defamation; or
8. Invasion of privacy;

Q. “Transaction” means any of the following that occur during the “EPL coverage period”:

1. The “named insured” shall consolidate with or merge into, or sell all or substantially all of its assets to any other person or entity or group of persons or entities acting in concert; or
2. Any person or entity or group of persons or entities acting in concert shall acquire an amount of the outstanding securities representing more than fifty (50%) percent of the voting power for the election of directors or General Partners of the “named insured” (in the event the “named insured” is a Partnership), or acquires the voting rights of such an amount of such securities; or
3. A General Partner of the “named insured” (in the event the “named insured” is a partnership) withdraws, resigns or is terminated;

R. “Whistleblower law” means a statute, rule or regulation, which protects an employee against discrimination from his or her employer, if the employee discloses or threatens to disclose to a superior or any governmental agency; or who gives testimony relating to, any action with respect to the employer's operations, which may be a violation of public policy as reflected in legislation, administrative rules, regulations or decisions, judicial decisions, and professional codes of ethics.

S. “Wrongful employment act(s)” means any actual or alleged:

1. Wrongful dismissal, discharge or termination (either actual or constructive), including breach of an implied contract;
2. Harassment or coercion (including sexual harassment, whether quid pro quo, hostile work environment or otherwise);
3. Discrimination (including but not limited to discrimination based upon age, gender, race, color, national origin, religion, sexual orientation or preference, pregnancy or disability);
4. “Retaliation” (including lockouts);
5. Employment-related misrepresentation(s) to “your” “employee” or applicant for employment with “you”;

6. Employment-related libel, slander, humiliation, mental anguish, infliction of emotional distress, defamation, or invasion of privacy;
7. Wrongful failure to employ or promote;
8. Wrongful deprivation of career opportunity, wrongful demotion or negligent "employee" evaluation, including the giving of negative or defamatory statements in connection with an "employee" reference;
9. Wrongful discipline;
10. Failure to provide or enforce adequate or consistent corporate policies and procedures relating to any "wrongful employment act";
11. Negligent supervision or hiring by an "insured", relating to any of the above;
12. Violation of an individual's civil rights relating to any of the above; or
13. "Third party violations", but only if coverage for "third party violations" is shown on the Schedule.

POLICY NUMBER: WOP5335

BUSINESSOWNERS**BO 60 50 01 11****THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****EQUIPMENT BREAKDOWN COVERAGE**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM**SCHEDULE**

The following deductible amount will apply to each loss after all other adjustments have been made.
Deductible: \$500
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. The following is added to Paragraph A.3. Covered Causes Of Loss in Section I - Property.**Additional Coverage - Equipment Breakdown**

The term Covered Cause of Loss includes the Additional Coverage Equipment Breakdown as described and limited below.

1. We will pay for direct physical damage to Covered Property that is the direct result of an "accident." As used in this Additional Coverage, "accident" means a fortuitous event that causes direct physical damage to "covered equipment." The event must be one of the following:
 - a. Mechanical breakdown, including rupture or bursting caused by centrifugal force;
 - b. Artificially generated electrical, magnetic or electromagnetic energy, including electric arcing, that damages, disturbs, disrupts or otherwise interferes with any electrical or electronic wire, device, appliance, system or network;
 - c. Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control;
 - d. Loss or damage to steam boilers, steam pipes, steam engines or steam turbines caused by or resulting from any condition or event inside such equipment; or
 - e. Loss or damage to hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment.
2. The following coverages also apply to the direct result of an "accident." These

coverages do not provide additional amounts of insurance.

a. Expediting Expenses

With respect to your damaged Covered Property, we will pay the reasonable extra cost to:

- (1) Make temporary repairs; and
- (2) Expedite permanent repairs or permanent replacement.

The most we will pay for loss or expense under this coverage is \$25,000.

b. Hazardous Substances

We will pay for the additional cost to repair or replace Covered Property because of contamination by a "hazardous substance." This includes the additional expenses to clean up or dispose of such property.

This does not include contamination of "perishable goods" by refrigerant, including but not limited to ammonia, which is addressed in 2.c.(1)(b) below. As used in this coverage, additional costs mean those beyond what would have been payable under this Equipment Breakdown Coverage had no "hazardous substance" been involved.

The most we will pay for loss, damage or expense under this coverage, including actual loss of Business Income you sustain and necessary Extra Expense you incur, is \$25,000.

c. Spoilage

(1) We will pay:

- (a)** For physical damage to “perishable goods” due to spoilage;
- (b)** For physical damage to “perishable goods” due to contamination from the release of refrigerant, including but not limited to ammonia;
- (c)** Any necessary expenses you incur to reduce the amount of loss under this coverage to the extent that they do not exceed the amount of loss that otherwise would have been payable under this coverage.

- (2)** If you are unable to replace the “perishable goods” before its anticipated sale, the amount of our payment will be determined on the basis of the sales price of the “perishable goods” at the time of the “accident,” less discounts and expenses you otherwise would have had. Otherwise our payment will be determined in accordance with the Loss Payment condition.

The most we will pay for loss, damage or expense under this coverage is \$50,000.

d. Data Restoration

We will pay for your reasonable and necessary cost to research, replace and restore lost “electronic data.”

The most we will pay for loss or expense under this coverage, including actual loss of Business Income you sustain and necessary Extra Expense you incur, is \$25,000.

e. Service Interruption

- (1)** Any insurance provided for Business Income, Extra Expense or Spoilage is extended to apply to your loss, damage or expense caused by the interruption of utility services. The interruption must result from an “accident” to equipment, including overhead transmission lines, that is owned by a utility, landlord, a

landlord’s utility or other supplier who provides you with any of the following services: electrical power, waste disposal, air conditioning, refrigeration, heating, natural gas, compressed air, water, steam, internet access, telecommunications services, wide area networks or data transmission. The equipment must meet the definition of “covered equipment” except that it is not Covered Property.

- (2)** We will not pay for any loss of Business Income you sustain that results from the interruption of utility services during the first 24 hours following the “accident.” However, if the “period of restoration” begins more than 24 hours after the time of the direct physical damage for Business Income, then that time period will apply instead of the 24 hours provided for in this paragraph.

- (3)** The most we will pay in any “one accident” for loss, damage or expense under this coverage is the applicable limit for Business Income, Extra Expense or Spoilage.

f. Business Income and Extra Expense

Any insurance provided under this policy for Business Income or Extra Expense is extended to the coverage provided by this endorsement. The most we will pay for loss or expense under this coverage is the applicable limit for Business Income and Extra Expense.

B. Paragraph B. Exclusions in Section I - Property is amended as follows:

Equipment Breakdown Exclusions

All exclusions in **Section I - Property** apply except as modified below and to the extent that coverage is specifically provided by this Additional Coverage Equipment Breakdown.

1. The following exclusions are modified:

- a.** The following is added to Exclusion **B.1.g.:**

However, if electrical “covered equipment” requires drying out because of Water as described in **g.(1)** through **g.(3)**

above, we will pay for the direct expenses of such drying out subject to the applicable Limit of Insurance and deductible for Building or Business Personal Property, whichever applies.

- b. As respects this endorsement only, the next to the last paragraph in Exclusion B.1.h. is deleted and replaced with the following:

However, if excluded loss or damage, as described in Paragraph (1) above results in an "accident," we will pay only for the loss, damage or expense caused by such "accident."

- c. As respects this endorsement only, the last paragraph of Exclusion B.2.l. is deleted and replaced with the following:

But if an excluded cause of loss that is listed in 2.1.(1) through (7) results in an "accident," we will pay for the loss, damage or expense caused by that "accident."

- d. The following is added to Exclusions B.2.m. and B.2.n.:

We will also pay for direct physical loss or damage caused by an "accident."

2. The following exclusions are added:

- a. We will not pay for loss, damage or expense caused by or resulting from:

(1) A hydrostatic, pneumatic or gas pressure test of any boiler or pressure vessel, or an electrical insulation breakdown test of any type of electrical equipment; or

(2) Any of the following:

(a) Defect, programming error, programming limitation, computer virus, malicious code, loss of data, loss of access, loss of use, loss of functionality or other condition within or involving "electronic data" of any kind; or

(b) Misalignment, miscalibration, tripping off-line, or any condition which can be corrected by resetting, tightening, adjusting or

cleaning, or by the performance of maintenance.

However, if an "accident" results, we will pay for the resulting loss, damage or expense caused by that "accident."

- b. With respect to Service Interruption coverage, we will also not pay for an "accident" caused by or resulting from: fire; lightning; windstorm or hail; explosion (except as specifically provided in A.1.c. above); smoke; aircraft or vehicles; riot or civil commotion; vandalism; sprinkler leakage; falling objects; weight of snow, ice or sleet; freezing; collapse; flood or earth movement.

- c. With respect to Business Income, Extra Expense and Service Interruption coverages, we will also not pay for any increase in loss resulting from an agreement between you and your customer or supplier.

- d. We will not pay for any loss or damage to animals.

C. The following is added to Paragraph C. Limits Of Insurance in Section I - Property:

The most we will pay for loss, damage or expense under this endorsement arising from any "one accident" is the applicable Limit of Insurance for Section I - Property in the Declarations. Coverage provided under this endorsement does not provide an additional amount of insurance.

- D. With respect to the coverage provided under this endorsement, the following conditions are added to Paragraph F. Property General Conditions in Section I - Property.

1. Suspension

Whenever "covered equipment" is found to be in, or exposed to, a dangerous condition, any of our representatives may immediately suspend the insurance against loss from an "accident" to that "covered equipment." This can be done by mailing or delivering a written notice of suspension to:

- a. Your last known address; or
- b. The address where the "covered equipment" is located.

Once suspended in this way, your insurance can be reinstated only by an endorsement for that "covered equipment." If we suspend your insurance, you will get a pro rata refund of premium for that "covered equipment" for the period of suspension. But the suspension will be effective even if we have not yet made or offered a refund.

2. Jurisdictional Inspections

If any property that is "covered equipment" under this endorsement requires inspection to comply with state or municipal boiler and pressure vessel regulations, we agree to perform such inspection on your behalf. We do not warrant that conditions are safe or healthful.

3. Environmental, Safety and Efficiency Improvements

If "covered equipment" requires replacement due to an "accident," we will pay your additional cost to replace with equipment that is better for the environment, safer or more efficient than the equipment being replaced.

However, we will not pay more than 125% of what the cost would have been to replace with like kind and quality. This condition does not increase any of the applicable limits. This condition does not apply to any property to which Actual Cash Value applies.

E. Paragraph G.4. Optional Coverages - Equipment Breakdown Protection Coverage in Section I - Property is deleted.

F. The following definitions are added to Paragraph H. Property Definitions in Section I - Property:

1. "Covered equipment"

a. "Covered equipment" means Covered Property:

- (1) That generates, transmits or utilizes energy, including electronic communications and data processing equipment; or**
- (2) Which, during normal usage, operates under vacuum or pressure, other than the weight of its contents.**

b. None of the following is "covered equipment":

- (1) Structure, foundation, cabinet, compartment or air supported structure or building;**
- (2) Insulating or refractory material;**
- (3) Sewer piping, buried vessels or piping, or piping forming a part of a sprinkler or fire suppression system;**
- (4) Water piping other than boiler feedwater piping, boiler condensate return piping or water piping forming a part of a refrigerating or air conditioning system;**
- (5) "Vehicle" or any equipment mounted on a "vehicle";**
- (6) Satellite, spacecraft or any equipment mounted on a satellite or spacecraft;**
- (7) Dragline, excavation or construction equipment; or**
- (8) Equipment manufactured by you for sale.**

2. "Hazardous substance" means any substance that is hazardous to health or has been declared to be hazardous to health by a governmental agency.

3. "One accident" means: If an initial "accident" causes other "accidents," all will be considered "one accident." All "accidents" that are the result of the same event will be considered "one accident".

4. "Perishable goods" means personal property maintained under controlled conditions for its preservation, and susceptible to loss or damage if the controlled conditions change.

5. "Vehicle" means, as respects this endorsement only, any machine or apparatus that is used for transportation or moves under its own power. "Vehicle" includes, but is not limited to, car, truck, bus, trailer, train, aircraft, watercraft, forklift, bulldozer, tractor or harvester.

However, any property that is stationary, permanently installed at a covered location and that receives electrical power from an external power source will not be considered a "vehicle."

POLICY NUMBER: WOP5335

BUSINESSOWNERS**BP 04 02 07 13****THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****ADDITIONAL INSURED - MANAGERS OR LESSORS OF PREMISES**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM**SCHEDULE****Designation Of Premises (Part Leased To You):**

2100 N SNELLING STE 171, ROSEVILLE, MN 55113

Name Of Person(s) Or Organization(s) (Additional Insured):

M&T REAL ESTATE TRUST

350 PARK AVENUE

NEW YORK, NY 10022

Additional Premium: \$

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. The following is added to Paragraph C. Who Is An Insured:

3. The person(s) or organization(s) shown in the Schedule is also an additional insured, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Schedule.

However:

- a. The insurance afforded to such additional insured only applies to the extent permitted by law;
- b. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds the following additional exclusions apply:

This insurance does not apply to:

1. Any "occurrence" that takes place after you cease to be a tenant in the premises described in the Schedule.
2. Structural alterations, new construction or demolition operations performed by or for the person(s) or organization(s) designated in the Schedule.

C. With respect to the insurance afforded to these additional insureds, the following is added to Paragraph D. Liability And Medical Expenses Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

- 1. Required by the contract or agreement; or**
- 2. Available under the applicable Limits Of Insurance shown in the Declarations.**

whichever is less.

This endorsement shall not increase the applicable Limits Of Insurance shown in the Declarations.

POLICY NUMBER: WOP5335

BUSINESSOWNERS**BP 04 02 07 13****THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****ADDITIONAL INSURED - MANAGERS OR LESSORS OF PREMISES**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM**SCHEDULE****Designation Of Premises (Part Leased To You):**

2100 N SNELLING STE 171, ROSEVILLE, MN 55113

Name Of Person(s) Or Organization(s) (Additional Insured):

EMMES REALTY SERVICES LLC

420 LEXINGTON AVENUE

ROOM 900

NEW YORK, NY 10170

Additional Premium: \$

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. The following is added to Paragraph C. Who Is An Insured:

3. The person(s) or organization(s) shown in the Schedule is also an additional insured, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Schedule.

However:

- a. The insurance afforded to such additional insured only applies to the extent permitted by law;
- b. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds the following additional exclusions apply:

This insurance does not apply to:

1. Any "occurrence" that takes place after you cease to be a tenant in the premises described in the Schedule.
2. Structural alterations, new construction or demolition operations performed by or for the person(s) or organization(s) designated in the Schedule.

C. With respect to the insurance afforded to these additional insureds, the following is added to Paragraph D. Liability And Medical Expenses Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

- 1. Required by the contract or agreement; or**
- 2. Available under the applicable Limits Of Insurance shown in the Declarations.**

whichever is less.

This endorsement shall not increase the applicable Limits Of Insurance shown in the Declarations.

POLICY NUMBER: WOP5335

BUSINESSOWNERS**BP 04 02 07 13****THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****ADDITIONAL INSURED - MANAGERS OR LESSORS OF PREMISES**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM**SCHEDULE****Designation Of Premises (Part Leased To You):**

2100 N SNELLING STE 171, ROSEVILLE, MN 55113

Name Of Person(s) Or Organization(s) (Additional Insured):

EMMES ASSET MANAGEMENT

420 LEXINGTON AVENUE

ROOM 900

NEW YORK, NY 10170

Additional Premium: \$

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. The following is added to Paragraph C. Who Is An Insured:

3. The person(s) or organization(s) shown in the Schedule is also an additional insured, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Schedule.

However:

- a. The insurance afforded to such additional insured only applies to the extent permitted by law;
- b. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds the following additional exclusions apply:

This insurance does not apply to:

1. Any "occurrence" that takes place after you cease to be a tenant in the premises described in the Schedule.
2. Structural alterations, new construction or demolition operations performed by or for the person(s) or organization(s) designated in the Schedule.

C. With respect to the insurance afforded to these additional insureds, the following is added to Paragraph D. Liability And Medical Expenses Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

- 1. Required by the contract or agreement; or**
- 2. Available under the applicable Limits Of Insurance shown in the Declarations.**

whichever is less.

This endorsement shall not increase the applicable Limits Of Insurance shown in the Declarations.

POLICY NUMBER: WOP5335

BUSINESSOWNERS**BP 04 02 07 13****THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****ADDITIONAL INSURED - MANAGERS OR LESSORS OF PREMISES**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM**SCHEDULE****Designation Of Premises (Part Leased To You):**

2100 N SNELLING STE 171, ROSEVILLE, MN 55113

Name Of Person(s) Or Organization(s) (Additional Insured):

GATEWAY WASHINGTON INC

%EMMES ASSET MANAGEMENT COMPANY LLC

420 LEXINGTON AVENUE

ROOM 900

NEW YORK, NY 10170

Additional Premium: \$

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. The following is added to Paragraph C. Who Is An Insured:

3. The person(s) or organization(s) shown in the Schedule is also an additional insured, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Schedule.

However:

- a. The insurance afforded to such additional insured only applies to the extent permitted by law;
- b. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds the following additional exclusions apply:

This insurance does not apply to:

1. Any "occurrence" that takes place after you cease to be a tenant in the premises described in the Schedule.
2. Structural alterations, new construction or demolition operations performed by or for the person(s) or organization(s) designated in the Schedule.

C. With respect to the insurance afforded to these additional insureds, the following is added to Paragraph D. Liability And Medical Expenses Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

- 1. Required by the contract or agreement; or**
- 2. Available under the applicable Limits Of Insurance shown in the Declarations.**

whichever is less.

This endorsement shall not increase the applicable Limits Of Insurance shown in the Declarations.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WATER BACK-UP AND SUMP OVERFLOW

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Premises Number	Covered Property Annual Aggregate Limit Of Insurance	Business Income And Extra Expense Annual Aggregate Limit Of Insurance
	See Schedule BP 04 53 SC	
Information required to complete this Schedule, if not shown above, will be shown on Declarations.		

A. We will pay for direct physical loss or damage to Covered Property, covered under Section I - Property, caused by or resulting from:

- 1. Water or waterborne material which backs up through or overflows or is otherwise discharged from a sewer or drain; or**
- 2. Water or waterborne material which overflows or is otherwise discharged from a sump, sump pump or related equipment, even if the overflow or discharge results from mechanical breakdown of a sump pump or its related equipment.**

However, with respect to Paragraph A.2., we will not pay the cost of repairing or replacing a sump pump or its related equipment in the event of mechanical breakdown.

B. The coverage described in Paragraph A. of this endorsement does not apply to loss or damage resulting from:

- 1. An insured's failure to keep a sump pump or its related equipment in proper working condition;**
- 2. An insured's failure to perform the routine maintenance or repair necessary to keep a sewer or drain free from obstructions; or**
- 3. Sump pump failure which is caused by or results from failure of power, unless this policy**

is endorsed to cover power failure affecting the described premises.

C. The most we will pay for the coverage provided under this endorsement for all direct physical loss or damage to Covered Property is the Covered Property Annual Aggregate Limit of Insurance. That limit is \$5,000 per location, unless a different Covered Property Annual Aggregate Limit of Insurance is indicated in the Schedule of this endorsement.

The applicable Covered Property Annual Aggregate Limit of Insurance is the most we will pay under this endorsement for the total of all direct physical loss or damage sustained in any one policy year, regardless of the number of occurrences that cause or result in loss or damage to Covered Property. If loss payment for the first such occurrence does not exhaust the applicable Limit Of Insurance, then the balance of that Limit is available for subsequent loss or damage sustained in, but not after, that policy year. With respect to an occurrence which begins in one policy year and continues or results in additional loss or damage in a subsequent policy year(s), all loss or damage is deemed to be sustained in the policy year in which the occurrence began.

D. The following provisions apply to Section I - Property and supersede any provisions to the contrary:

The most we will pay under:

1. Paragraph A.5.f. Business Income Additional Coverage for all loss of Business Income you sustain due to the necessary suspension of your "operations" caused by direct physical loss or damage to Covered Property as described in Paragraph A. of this endorsement; and

2. Paragraph A.5.g. Extra Expense Additional Coverage for all necessary Extra Expense you incur and that you would not have incurred if there had been no direct physical loss or damage to Covered Property as described in Paragraph A. of this endorsement;

is the Business Income And Extra Expense Annual Aggregate Limit Of Insurance. That limit is \$5,000 per location, unless a different Business Income And Extra Expense Annual Aggregate Limit Of Insurance is shown in the Schedule.

The applicable Business Income And Extra Expense Annual Aggregate Limit of Insurance is the most we will pay under this endorsement for the total of all loss of Business Income you sustain and Extra Expense you incur in any one policy year, regardless of the number of occurrences that cause or result in loss or damage to Covered Property as described in Paragraph A. of this endorsement. If loss payment during an earlier "period of restoration" in the policy year does not exhaust the applicable Limit Of Insurance, then the balance of that limit is available for loss of Business Income you sustain or Extra Expense you incur during a subsequent "period of restoration" beginning in, but not after, that policy year. With respect to a "period of restoration" which begins in one policy year and continues in a subsequent policy year(s), all loss of Business Income you sustain or Extra Expense you incur is deemed to be sustained or incurred in the policy year in which the "period of restoration" began.

E. With respect to the coverage provided under this endorsement, the Water Exclusion in Section 1 - Property is replaced by the following:

Water

1. Flood, surface water, waves (including tidal wave and tsunami), tides, tidal water, overflow of any body of water, or spray from any of these, all whether or not driven by wind (including storm surge);

2. Mudslide or mudflow;

3. Water under the ground surface pressing on, or flowing or seeping through:

a. Foundations, walls, floors or paved surfaces;

b. Basements, whether paved or not; or

c. Doors, windows or other openings; or

4. Waterborne material carried or otherwise moved by any of the water referred to in Paragraph 1. or 3., or material carried or otherwise moved by mudslide or mudflow.

This exclusion applies regardless of whether any of the above, in Paragraphs 1. through 4., is caused by an act of nature or is otherwise caused. An example of a situation to which this exclusion applies is the situation where a dam, levee, seawall or other boundary or containment system fails in whole or in part, for any reason, to contain the water.

But if any of the above, in Paragraphs 1. through 4., results in fire, explosion or sprinkler leakage, we will pay for the loss or damage caused by that fire, explosion or sprinkler leakage.

F. For the purposes of this endorsement, the term drain includes a roof drain and related fixtures.

POLICY NUMBER: WOP5335

**BUSINESSOWNERS
BP 04 53 SC 01 14**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WATER BACK-UP AND SUMP OVERFLOW SCHEDULE

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Premises Number	Covered Property Annual Aggregate Limit Of Insurance	Business Income And Extra Expense Annual Aggregate Limit Of Insurance
1	\$10,000	\$5,000

POLICY NUMBER: WOP5335

BUSINESSOWNERS**BP 04 56 07 13****THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****UTILITY SERVICES - DIRECT DAMAGE**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM**SCHEDULE**

Premises Number	Building Number	Utility Services Limit Of Insurance	Water Supply Property ("X" If Applies)	Communication Supply Property	Power Supply Property
				Overhead Transmission Lines Enter Either "Included" Or "Not Included" (If Applicable)	
		See Schedule BP 04 56 SC			
Covered Property:					
Covered Property:					
Covered Property:					
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.					

The coverage provided by this endorsement is subject to the provisions of Section I - Property, including Paragraph D. Deductibles, except as provided below.

A. The following is added to Paragraph A. Coverage:

We will pay for loss of or damage to Covered Property described in the Schedule, caused by the interruption of service to the described premises. The interruption must result from direct physical loss or damage by a Covered Cause of Loss to the property described in Paragraph C. of this endorsement if such property is indicated by an "X" in the Schedule.

B. Exception

Coverage under this endorsement for loss or damage to Covered Property does not apply to loss or damage to "electronic data", including destruction or corruption of "electronic data".

C. Utility Services

1. Water Supply Property, meaning the following types of property supplying water to the described premises:

- a. Pumping stations; and
- b. Water mains.

2. Communication Supply Property, meaning property supplying communication services, including telephone, radio, microwave or television services to the described premises, such as:

- a. Communication transmission lines, including optic fiber transmission lines;**
- b. Coaxial cables; and**
- c. Microwave radio relays except satellites.**

It does not include overhead transmission lines unless indicated in the Schedule.

3. Power Supply Services, meaning the following types of property supplying electricity, steam or gas to the described premises:

- a. Utility generating plants;**
- b. Switching stations;**
- c. Substations;**
- d. Transformers; and**
- e. Transmission lines.**

It does not include overhead transmission lines unless indicated in the Schedule.

D. As used in this endorsement, the term transmission lines includes all lines which serve to transmit communication service or power, including lines which may be identified as distribution lines.

E. Paragraph C. Limits Of Insurance is replaced by the following:

C. Limits Of Insurance

If a Utility Services Limit Of Insurance is shown in the Schedule, such limit is part of, not in addition to, the Limit Of Insurance stated in the Declarations as applicable to the Covered Property.

If no Limit Of Insurance is shown for Utility Services, coverage under this endorsement is subject to the applicable Limit Of Insurance on the Covered Property as shown in the Declarations. But this Utility Services Endorsement does not increase the applicable Limit Of Insurance.

POLICY NUMBER: WOP5335

**BUSINESSOWNERS
BP 04 56 SC 05 16****THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****UTILITY SERVICES - DIRECT DAMAGE SCHEDULE**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM**SCHEDULE**

Premises Number	Building Number	Utility Services Limit Of Insurance	Water Supply Property ("X" If Applies)	Communication Supply Property	Power Supply Property
				Overhead Transmission Lines Enter Either "Included" Or "Not Included" (If Applicable)	
1	1	See Covered Property Below	X	Not Included	Not Included
Covered Property: 2100 N SNELLING STE 171, ROSEVILLE, MN 55113 BUSINESS PERSONAL PROPERTY LIMIT - \$10,000					

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

UTILITY SERVICES - TIME ELEMENT

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Premises Number	Building Number	Utility Services Limit Of Insurance	Water Supply Property ("X" If Applies)	Wastewater Removal Property	Communication Supply Property	Power Supply Property
					Overhead Transmission Lines Enter Either "Included" Or "Not Included" (If Applicable)	
		See Schedule BP 04 57 SC				

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The coverage provided by this endorsement is subject to the provisions of Section I - Property, except as provided below.

A. The following is added to Paragraph A. Coverage:

We will pay for loss of Business Income or Extra Expense at the described premises caused by the interruption of service to the described premises. The interruption must result from direct physical loss or damage by a Covered Cause of Loss to the property described in Paragraph C. of this endorsement if such property is indicated by an "X" in the Schedule.

B. Exception

Coverage under this endorsement does not apply to Business Income loss or Extra Expense related to interruption in utility service which causes loss or damage to "electronic data", including destruction or corruption of "electronic data".

C. Utility Services

1. Water Supply Property, meaning the following types of property supplying water to the described premises:

- a. Pumping stations; and
- b. Water mains.

2. Wastewater Removal Property, meaning a utility system for removing wastewater and

sewage from the described premises, other than a system designed primarily for draining storm water. The utility property includes sewer mains, pumping stations and similar equipment for moving the effluent to a holding, treatment or disposal facility, and includes such facilities.

Coverage under this endorsement does not apply to interruption in service caused by or resulting from a discharge of water or sewage due to heavy rainfall or flooding.

3. Communication Supply Property, meaning property supplying communication services, including telephone, radio, microwave or television services to the described premises, such as:

- a. Communication transmission lines, including optic fiber transmission lines;
- b. Coaxial cables; and
- c. Microwave radio relays except satellites.

It does not include overhead transmission lines unless indicated in the Schedule.

4. Power Supply Property, meaning the following types of property supplying electricity, steam or gas to the described premises:

- a. Utility generating plants;

- b. Switching stations;**
- c. Substations;**
- d. Transformers; and**
- e. Transmission lines.**

It does not include overhead transmission lines unless indicated in the Schedule.

- E. Paragraph C. Limits Of Insurance is replaced by the following:**

C. Limits Of Insurance

The most we will pay for loss or damage in any one occurrence is the Limit Of Insurance shown in the Schedule as applicable to the Covered Property.

- D. As used in this endorsement, the term transmission lines includes all lines which serve to transmit communication service or power, including lines which may be identified as distribution lines.**

POLICY NUMBER: WOP5335

**BUSINESSOWNERS
BP 04 57 SC 05 16****THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****UTILITY SERVICES - TIME ELEMENT SCHEDULE**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM**SCHEDULE**

Premises Number	Building Number	Utility Services Limit Of Insurance	Water Supply Property ("X" If Applies)	Wastewater Removal Property	Communication Supply Property	Power Supply Property
					Overhead Transmission Lines Enter Either "Included" Or "Not Included" (If Applicable)	
1	1	\$10,000	X	X	Not Included	Not Included

THIS ENDORSEMENT IS ATTACHED TO AND MADE PART OF YOUR POLICY IN RESPONSE TO THE DISCLOSURE REQUIREMENTS OF THE TERRORISM RISK INSURANCE ACT. THIS ENDORSEMENT DOES NOT GRANT ANY COVERAGE OR CHANGE THE TERMS AND CONDITIONS OF ANY COVERAGE UNDER THE POLICY.

**DISCLOSURE PURSUANT TO
TERRORISM RISK INSURANCE ACT**

SCHEDULE

SCHEDULE - PART 1			
Terrorism Premium (Certified Acts)		\$0	
Additional Information, if any, concerning the terrorism premium:			
SCHEDULE - PART II			
Federal share of terrorism losses	81 %	Year	2019
(Refer to Paragraph B. in this endorsement.)			
Federal share of terrorism losses	80 %	Year	2020
(Refer to Paragraph B. in this endorsement.)			
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.			

A. Disclosure Of Premium

In accordance with the federal Terrorism Risk Insurance Act, we are required to provide you with a notice disclosing the portion of your premium, if any, attributable to coverage for terrorist acts certified under the Terrorism Risk Insurance Act. The portion of your premium attributable to such coverage is shown in the Schedule of this endorsement or in the policy Declarations.

B. Disclosure Of Federal Participation In Payment Of Terrorism Losses

The United States Government, Department of the Treasury, will pay a share of terrorism losses insured under the federal program. The federal share equals a percentage (as shown in Part II of the Schedule of this endorsement or in the policy Declarations) of that portion of the amount of such insured losses that exceeds the applicable insurer retention. However, if aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a calendar year, the Treasury shall not make any payment for any portion of the amount of such losses that exceeds \$100 billion.

C. Cap On Insurer Participation In Payment Of Terrorism Losses

If aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a calendar year and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMPUTER FRAUD AND FUNDS TRANSFER FRAUD

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Coverage	Limit Of Insurance
Computer Fraud And Funds Transfer Fraud Coverage	\$5,000
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

Section I - Property is amended as follows:

- A. With respect to the coverage provided by this endorsement, Paragraph A.4. **Limitations** is amended as follows:

Subparagraph a.(4) does not apply.

- B. The following is added to Paragraph A.5. **Additional Coverages**:

Computer Fraud And Funds Transfer Fraud

- (1) The Computer Fraud And Funds Transfer Fraud Coverage limit shown in the Schedule of this endorsement is the most we will pay for loss of and damage to "money", "securities" and "other property" following and directly related to the use of any computer to fraudulently cause a transfer of that property from inside the described premises, bank or savings institution:

(a) To a person (other than a messenger) outside those premises; or

(b) To a place outside those premises.

- (2) The Computer Fraud And Funds Transfer Fraud Coverage limit shown in the Schedule of this endorsement is the most we will pay for loss of "money" and "securities" resulting directly from a "fraudulent instruction" directing a financial institution to transfer, pay or deliver "money" and "securities" from your "transfer account".

- C. With respect to the coverage provided by this endorsement, Paragraph B. **Exclusions** is amended as follows:

1. Paragraph 2.g. **False Pretense** does not apply.

2. The following exclusion is added:

We will not pay for loss or damages caused by or resulting from the use or purported use of credit, debit, charge, access, convenience, identification, stored-value or other cards or the information contained on such cards.

- D. The following exclusion is added to Paragraph under G.2. **Money And Securities Optional Coverages**:

- (4) Or damage to "money" and "securities" following and directly related to the use of any computer to fraudulently cause a transfer of that property from inside the described premises, bank or savings institution:

(a) To a person (other than a messenger) outside those premises; or

(b) To a place outside those premises.

- E. The following are added to Paragraph H. **Property Definitions**:

15. "Employee"

- a. "Employee" means:

- (1) Any natural person:

(a) While in your service or for 30 days after termination of service;

(b) Who you compensate directly by salary, wages or commissions; and

(c) Who you have the right to direct and control while performing services for you;

(2) Any natural person who is furnished temporarily to you:

(a) To substitute for a permanent "employee", as defined in Paragraph (1), who is on leave; or

(b) To meet seasonal or short-term work load conditions;

while that person is subject to your direction and control and performing services for you, excluding, however, any such person while having care and custody of property outside the premises;

(3) Any natural person who is leased to you under a written agreement between you and a labor leasing firm, to perform duties related to the conduct of your business, but does not mean a temporary employee as defined in Paragraph (2) above;

(4) Any natural person who is:

(a) A trustee, officer, employee, administrator or manager, except an administrator or manager who is an independent contractor, of any "employee benefit plan(s)" insured under this policy; and

(b) Your director or trustee while that person is handling "funds" or "other property" of any "employee benefit plan(s)" insured under this policy;

(5) Any natural person who is a former "employee", director, partner, "member", "manager", representative or trustee retained as a consultant while performing services for you; or

(6) Any natural person who is a guest student or intern pursuing studies or duties, excluding, however, any such person while having care and custody of property outside the premises.

b. "Employee" does not mean:

(1) Any agent, broker, factor, commission merchant, consignee, independent contractor or representative of the same general character; or

(2) Any "manager", director or trustee except while performing acts coming within the scope of the usual duties of an "employee".

16. "Fraudulent instruction" means:

a. An electronic, telegraphic, cable, teletype, telefacsimile or telephone instruction which purports to have been transmitted by you, but which was in fact fraudulently transmitted by someone else without your knowledge or consent;

b. A written instruction (other than those described in Paragraph A.5.k.) issued by you, which was forged or altered by someone other than you without your knowledge or consent or which purports to have been issued by you, but was in fact fraudulently issued without your knowledge or consent; or

c. An electronic, telegraphic, cable, teletype, telefacsimile, telephone or written instruction initially received by you which purports to have been transmitted by an "employee" but which was in fact fraudulently transmitted by someone else without your or the "employee's" knowledge or consent.

17. "Other property" means any tangible property other than "money" and "securities" that has intrinsic value but does not include any property excluded under this policy.

18. "Transfer account" means an account maintained by you at a financial institution from which you can initiate the transfer, payment or delivery of "money" and "securities":

a. By means of electronic, telegraphic, cable, teletype, telefacsimile or telephone instructions communicated directly through an electronic funds transfer system; or

b. By means of written instructions (other than those described in Paragraph A.5.k.) establishing the conditions under which such transfers are to be initiated by such financial institution through an electronic funds transfer system.

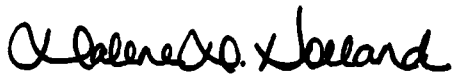
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WADENA INSURANCE COMPANY

AMENDATORY ENDORSEMENT

1. Wadena Insurance Company located at 7825 Mills Civic Parkway, West Des Moines, Iowa, is a stock company domiciled under the laws of the state of Iowa.
2. The following is made a part of the policy:

In Witness Whereof, we have caused this policy to be executed and attested, and, if required by state law, this policy shall not be valid unless countersigned by our authorized representative.



Secretary



President

ML 7000 MN 02 19

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - ASBESTOS OR ASBESTOS PRODUCTS

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

**A. The following exclusion is added to Paragraph B.
Exclusions in Section II - Liability:**

B. Exclusions

This insurance does not apply to:

ASBESTOS OR ASBESTOS PRODUCTS

1. "Bodily injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, or ingestion of, asbestos, asbestos fibers, asbestos dust or any product containing asbestos.
2. "Property damage" arising, in whole or in part, out of the actual, alleged, threatened or suspected contact with, exposure to, existence of, or presence of, asbestos, asbestos fibers, asbestos dust or any product containing asbestos.

3. "Personal and advertising injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, asbestos, asbestos fibers, asbestos dust or any product containing asbestos.

4. Any loss, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to or assessing the effects of, asbestos, asbestos fibers, asbestos dust, or any product that contains asbestos, by any insured or by any other person or entity.

**BUSINESSOWNERS
BO 60 03 01 11**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LEAD LIABILITY EXCLUSION

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

The following exclusion is added to Paragraph B.1.
**Exclusions - Applicable to Business Liability Coverage
in Section II - Liability:**

This insurance does not apply to:

t. Lead Liability

- (1) Actual or alleged [bodily injury] arising out of the ingestion, inhalation, or absorption of lead in any form;**
- (2) Actual or alleged [property damage] or [personal and advertising injury] arising out of any form of lead;**

- (3) Any loss, cost or expense arising out of any request, demand or order to test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, or in any way respond to or assess the effects of lead; or**

- (4) Any loss, cost or expense arising from any claim or [suit] by or on behalf of any governmental authority for damages resulting from the testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to or assessing the effects of lead.**

**BUSINESSOWNERS
BO 60 04 01 11**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - PUNITIVE DAMAGES

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

The following is added to Section II - Liability B. Exclusions and supersedes any provision to the contrary:

This insurance does not apply to punitive or exemplary damages.

BUSINESSOWNERS**BO 60 52 01 11****THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

IDENTITY RECOVERY COVERAGE

IDENTITY THEFT CASE MANAGEMENT SERVICE AND EXPENSE REIMBURSEMENT

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

The following is added as an Additional Coverage under Section 1 - Property.

IDENTITY RECOVERY COVERAGE

We will provide the Case Management Service and Expense Reimbursement Coverage indicated below if all of the following requirements are met:

1. There has been an "identity theft" involving the personal identity of an "identity recovery insured" under this policy; and
2. Such "identity theft" is first discovered by the "identity recovery insured" during the policy period for which this Identity Recovery Coverage is applicable; and
3. Such "identity theft" is reported to us within 60 days after it is first discovered by the "identity recovery insured."

If all three of the requirements listed above have been met, then we will provide the following to the "identity recovery insured":

1. Case Management Service

Services of an "identity recovery case manager" as needed to respond to the "identity theft"; and

2. Expense Reimbursement

Reimbursement of necessary and reasonable "identity recovery expenses" incurred as a direct result of the "identity theft."

This coverage is additional insurance.

EXCLUSIONS

The following additional exclusions apply to this coverage:

We do not cover loss or expense arising from any of the following:

1. The theft of a professional or business identity.

2. Any fraudulent, dishonest or criminal act by an "identity recovery insured" or any person aiding or abetting an "identity recovery insured", or by any authorized representative of an "identity recovery insured", whether acting alone or in collusion with others. However, this exclusion shall not apply to the interests of an "identity recovery insured" who has no knowledge of or involvement in such fraud, dishonesty or criminal act.

3. An "identity theft" that is not reported in writing to the police.

LIMITS

Case Management Service is available as needed for any one "identity theft" for up to 12 consecutive months from the inception of the service. Expenses we incur to provide Case Management Service do not reduce the amount of limit available for Expense Reimbursement Coverage.

Expense Reimbursement Coverage is subject to a limit of \$15,000 annual aggregate per "identity recovery insured." Regardless of the number of claims, this limit is the most we will pay for the total of all loss or expense arising out of all "identity thefts" to any one "identity recovery insured" which are first discovered by the "identity recovery insured" during a 12-month period starting with the beginning of the present annual policy period. If an "identity theft" is first discovered in one policy period and continues into other policy periods, all loss and expense arising from such "identity theft" will be subject to the aggregate limit applicable to the policy period when the "identity theft" was first discovered.

Legal costs as provided under item d. of the definition of "identity recovery expenses" are part of, and not in addition to, the Expense Reimbursement Coverage limit.

Item e. (Lost Wages) and item f. (Child and Elder Care Expenses) of the definition of "identity recovery expenses" are jointly subject to a sublimit of \$5,000. This sublimit is part of, and not in addition to, the Expense Reimbursement Coverage limit. Coverage is

limited to wages lost and expenses incurred within 12 months after the first discovery of the [identity theft] by the [identity recovery insured].

Item g. (Mental Health Counseling) of the definition of [identity recovery expenses] is subject to a sublimit of \$1,000. This sublimit is part of, and not in addition to, the Expense Reimbursement Coverage limit. Coverage is limited to counseling that takes place within 12 months after the first discovery of the [identity theft] by the [identity recovery insured].

Item h. (Miscellaneous Unnamed Costs) of the definition of [identity recovery expenses] is subject to a sublimit of \$1,000. This sublimit is part of, and not in addition to, the Expenses Reimbursement Coverage limit. Coverage is limited to costs incurred within 12 months after the first discovery of the [identity theft] by the [identity recovery insured].

DEDUCTIBLE

Case Management Service is not subject to a deductible.

Expense Reimbursement Coverage is subject to a deductible of \$100. Any one [identity recovery insured] shall be responsible for only one deductible under this Identity Recovery Coverage during any one policy period.

No other deductible applies to the Identity Recovery Coverage.

CONDITIONS

The following additional conditions apply to this coverage:

A. Help Line

For assistance, the [identity recovery insured] should call the Identity Recovery Help Line at 1-866-221-3470.

The Identity Recovery Help Line can provide the [identity recovery insured] with:

1. Information and advice for how to respond to a possible [identity theft]; and
2. Instructions for how to submit a service request for Case Management Service and/or a claim form for Expense Reimbursement Coverage.

In some cases, we may provide Case Management services at our expense to an [identity recovery insured] prior to a determination that a covered [identity theft] has occurred. Our provision of such services is not an admission of liability under the policy. We reserve the right to deny further coverage or service if, after investigation, we determine that a covered [identity theft] has not occurred.

As respects Expense Reimbursement Coverage, the [identity recovery insured] must send to us, within 60 days after our request, receipts, bills or other records that support his or her claim for "identity recovery expenses."

B. Services

The following conditions apply as respects any services provided by us or our designees to any [identity recovery insured] under this endorsement:

1. Our ability to provide helpful services in the event of an [identity theft] depends on the cooperation, permission and assistance of the [identity recovery insured].
2. All services may not be available or applicable to all individuals. For example, [identity recovery insureds] who are minors or foreign nationals may not have credit records that can be provided or monitored. Service in Canada will be different from service in the United States and Puerto Rico in accordance with local conditions.
3. We do not warrant or guarantee that our services will end or eliminate all problems associated with an [identity theft] or prevent future [identity thefts].

DEFINITIONS

With respect to the provisions of this endorsement only, the following definitions are added:

1. "Identity Recovery Case Manager" means one or more individuals assigned by us to assist an [identity recovery insured] with communications we deem necessary for re-establishing the integrity of the personal identity of the [identity recovery insured]. This includes, with the permission and cooperation of the [identity recovery insured], written and telephone communications with law enforcement authorities, governmental agencies, credit agencies and individual creditors and businesses.

2. **"Identity Recovery Expenses"** means the following when they are reasonable and necessary expenses that are incurred as a direct result of an identity theft:

- a. Costs for re-filing applications for loans, grants or other credit instruments that are rejected solely as a result of an identity theft.
- b. Costs for notarizing affidavits or other similar documents, long distance telephone calls and postage solely as a result of your efforts to report an identity theft or amend or rectify records as to your true name or identity as a result of an identity theft.
- c. Costs for credit reports from established credit bureaus.
- d. Fees and expenses for an attorney approved by us for the following:

(1) The defense of any civil suit brought against an identity recovery insured.

(2) The removal of any civil judgment wrongfully entered against an identity recovery insured.

(3) Legal assistance for an identity recovery insured at an audit or hearing by a governmental agency.

(4) Legal assistance in challenging the accuracy of the identity recovery insured's consumer credit report.

(5) The defense of any criminal charges brought against an identity recovery insured arising from the actions of a third party using the personal identity of the identity recovery insured.

- e. Actual lost wages of the identity recovery insured for time reasonably and necessarily taken away from work and away from the work premises. Time away from work includes partial or whole work days. Actual lost wages may include payment for vacation days, discretionary days, floating holidays and paid personal days. Actual lost wages does not include sick days or any loss arising from time taken away from self employment. Necessary time off does not include time off to do tasks that could reasonably have been done during non-working hours.

f. Actual costs for supervision of children or elderly or infirm relatives or dependants of the identity recovery insured during time reasonably and necessarily taken away from such supervision. Such care must be provided by a professional care provider who is not a relative of the identity recovery insured.

g. Actual costs for counseling from a licensed mental health professional. Such care must be provided by a professional care provider who is not a relative of the identity recovery insured.

h. Any other reasonable costs necessarily incurred by an identity recovery insured as a direct result of the identity theft.

(1) Such costs include:

(a) Costs by the identity recovery insured to recover control over his or her personal identity.

(b) Deductibles or service fees from financial institutions.

(2) Such costs do not include:

(a) Costs to avoid, prevent or detect identity theft or other loss.

(b) Money lost or stolen.

(c) Costs that are restricted or excluded elsewhere in this endorsement or policy.

3. **Identity Recovery Insured** means the following:

a. When the entity insured under this policy is a sole proprietorship, the identity recovery insured is the individual person who is the sole proprietor of the insured entity.

b. When the entity insured under this policy is a partnership, the identity recovery insureds are the current partners.

c. When the entity insured under this policy is a corporation or other organization, the identity recovery insureds are all individuals having an ownership position of 20% or more of the insured entity. However, if and only if there is no one who has such an ownership position, then the identity recovery insured shall be:

(1) The chief executive of the insured entity;
or

(2) As respects a religious institution, the senior ministerial employee.

An "identity recovery insured" must always be an individual person. The entity insured under this policy is not an "identity recovery insured."

4. "Identity Theft" means the fraudulent use of the social security number or other method of identifying an "identity recovery insured." This includes fraudulently using the personal identity of an "identity recovery insured" to establish credit accounts, secure loans, enter into contracts or commit crimes.

"Identity theft" does not include the fraudulent use of a business name, d/b/a or any other method of identifying a business activity.

All other provisions of this policy apply.

**BUSINESSOWNERS
BO 60 84 05 16**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – UNMANNED AIRCRAFT

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

Section II – Liability is amended as follows:

A. Exclusion 1.g. under Paragraph B. Exclusions is replaced by the following:

This insurance does not apply to:

g. Aircraft, Auto or Watercraft

(1) Unmanned Aircraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft". Use includes operation and "loading or unloading".

This Paragraph g.(1) applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft".

(2) Aircraft (Other Than Unmanned Aircraft), Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft (other than "unmanned aircraft"), "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This Paragraph g.(2) applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft (other than "unmanned aircraft"), "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This Paragraph g.(2) does not apply to:

- (a) A watercraft while ashore on premises you own or rent;
- (b) A watercraft you do not own that is:
 - (i) Less than 51 feet long; and
 - (ii) Not being used to carry persons or property for a charge;
- (c) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (d) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or
- (e) "Bodily injury" or "property damage" arising out of:
 - (i) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or
 - (ii) The operation of any of the following machinery or equipment:
 - i. Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
 - ii. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lightning and well servicing equipment.

B. The following exclusion is added to paragraph 1.p. under Paragraph B. Exclusions:

This insurance does not apply to:

p. Personal And Advertising Injury

"Personal and advertising injury" arising out of the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft". Use includes operations and "loading or unloading".

This exclusion applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the offense which caused the "personal and advertising injury" involved the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft".

This exclusion does not apply to:

- (a) The use of another's advertising idea in your "advertisement"; or
- (b) Infringing upon another's copyright, trade dress or slogan in your "advertisement".

C. The following definition is added to Paragraph F. Liability And Medical Expenses Definitions:

"Unmanned aircraft" means an aircraft that is not:

- a. Designed;
- b. Manufactured; or
- c. Modified after manufacture;

to be controlled directly by a person from within or on the aircraft.

BUSINESSOWNERS
BP 00 03 07 13

BUSINESSOWNERS COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this Coverage Form, the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the company providing this insurance.

In Section II – Liability, the word "insured" means any person or organization qualifying as such under Paragraph C. Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Paragraph H. Property Definitions in Section I – Property and Paragraph F. Liability And Medical Expenses Definitions in Section II – Liability.

SECTION I – PROPERTY

A. Coverage

We will pay for direct physical loss of or damage to Covered Property at the premises described in the Declarations caused by or resulting from any Covered Cause of Loss.

1. Covered Property

Covered Property includes Buildings as described under Paragraph a. below, Business Personal Property as described under Paragraph b. below, or both, depending on whether a Limit Of Insurance is shown in the Declarations for that type of property. Regardless of whether coverage is shown in the Declarations for Buildings, Business Personal Property, or both, there is no coverage for property described under Paragraph 2. Property Not Covered.

a. Buildings, meaning the buildings and structures at the premises described in the Declarations, including:

- (1) Completed additions;
- (2) Fixtures, including outdoor fixtures;
- (3) Permanently installed:
 - (a) Machinery; and
 - (b) Equipment;
- (4) Your personal property in apartments, rooms or common areas furnished by you as landlord;

(5) Personal property owned by you that is used to maintain or service the buildings or structures or the premises, including:

- (a) Fire extinguishing equipment;
- (b) Outdoor furniture;
- (c) Floor coverings; and
- (d) Appliances used for refrigerating, ventilating, cooking, dishwashing or laundering;

(6) If not covered by other insurance:

- (a) Additions under construction, alterations and repairs to the buildings or structures;
- (b) Materials, equipment, supplies and temporary structures, on or within 100 feet of the described premises, used for making additions, alterations or repairs to the buildings or structures.

b. Business Personal Property located in or on the buildings or structures at the described premises or in the open (or in a vehicle) within 100 feet of the buildings or structures or within 100 feet of the premises described in the Declarations, whichever distance is greater, including:

- (1) Property you own that is used in your business;
- (2) Property of others that is in your care, custody or control, except as otherwise provided in Loss Payment Property Loss Condition Paragraph E.5.d.(3)(b);
- (3) Tenant's improvements and betterments. Improvements and betterments are fixtures, alterations, installations or additions:
 - (a) Made a part of the building or structure you occupy but do not own; and
 - (b) You acquired or made at your expense but cannot legally remove;
- (4) Leased personal property which you have a contractual responsibility to insure, unless otherwise provided for under Paragraph 1.b.(2); and

- (5) Exterior building glass, if you are a tenant and no Limit Of Insurance is shown in the Declarations for Building property. The glass must be owned by you or in your care, custody or control.

2. Property Not Covered

Covered Property does not include:

- a. Aircraft, automobiles, motortrucks and other vehicles subject to motor vehicle registration;
- b. "Money" or "securities" except as provided in the:
 - (1) Money And Securities Optional Coverage; or
 - (2) Employee Dishonesty Optional Coverage;
- c. Contraband, or property in the course of illegal transportation or trade;
- d. Land (including land on which the property is located), water, growing crops or lawns (other than lawns which are part of a vegetated roof);
- e. Outdoor fences, radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers, signs (other than signs attached to buildings), trees, shrubs or plants (other than trees, shrubs or plants which are part of a vegetated roof), all except as provided in the:
 - (1) Outdoor Property Coverage Extension; or
 - (2) Outdoor Signs Optional Coverage;
- f. Watercraft (including motors, equipment and accessories) while afloat;
- g. Accounts, bills, food stamps, other evidences of debt, accounts receivable or "valuable papers and records"; except as otherwise provided in this policy;
- h. "Computer(s)" which are permanently installed or designed to be permanently installed in any aircraft, watercraft, motortruck or other vehicle subject to motor vehicle registration. This paragraph does not apply to "computer(s)" while held as "stock";

- i. "Electronic data", except as provided under Additional Coverages – Electronic Data. This Paragraph i. does not apply to your "stock" of prepackaged software or to "electronic data" which is integrated in and operates or controls the building's elevator, lighting, heating, ventilation, air conditioning or security system; or

- j. Animals, unless owned by others and boarded by you, or if owned by you, only as "stock" while inside of buildings.

3. Covered Causes Of Loss

Direct physical loss unless the loss is excluded or limited under Section I – Property.

4. Limitations

- a. We will not pay for loss of or damage to:
 - (1) Steam boilers, steam pipes, steam engines or steam turbines caused by or resulting from any condition or event inside such equipment. But we will pay for loss of or damage to such equipment caused by or resulting from an explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.
 - (2) Hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment, other than an explosion.
 - (3) Property that is missing, where the only evidence of the loss or damage is a shortage disclosed on taking inventory, or other instances where there is no physical evidence to show what happened to the property. This limitation does not apply to the Optional Coverage for Money and Securities.
 - (4) Property that has been transferred to a person or to a place outside the described premises on the basis of unauthorized instructions.
 - (5) The interior of any building or structure, or to personal property in the building or structure, caused by or resulting from rain, snow, sleet, ice, sand or dust, whether driven by wind or not, unless:
 - (a) The building or structure first sustains damage by a Covered Cause of Loss to its roof or walls through which the rain, snow, sleet, ice, sand or dust enters; or

- (b) The loss or damage is caused by or results from thawing of snow, sleet or ice on the building or structure.
- (6) Lawns, trees, shrubs or plants which are part of a vegetated roof, caused by or resulting from:
 - (a) Dampness or dryness of atmosphere or of soil supporting the vegetation;
 - (b) Changes in or extremes of temperature;
 - (b) Disease;
 - (d) Frost or hail; or
 - (e) Rain, snow, ice or sleet.
- b. We will not pay for loss of or damage to the following types of property unless caused by the "specified causes of loss" or building glass breakage:
 - (1) Animals, and then only if they are killed or their destruction is made necessary.
 - (2) Fragile articles such as glassware, statuary, marble, chinaware and porcelain, if broken. This restriction does not apply to:
 - (a) Glass that is part of the exterior or interior of a building or structure;
 - (b) Containers of property held for sale; or
 - (c) Photographic or scientific instrument lenses.
- c. For loss or damage by theft, the following types of property are covered only up to the limits shown (unless a higher Limit Of Insurance is shown in the Declarations):
 - (1) \$2,500 for furs, fur garments and garments trimmed with fur.
 - (2) \$2,500 for jewelry, watches, watch movements, jewels, pearls, precious and semiprecious stones, bullion, gold, silver, platinum and other precious alloys or metals. This limit does not apply to jewelry and watches worth \$100 or less per item.
 - (3) \$2,500 for patterns, dies, molds and forms.

5. Additional Coverages

a. Debris Removal

- (1) Subject to Paragraphs (2), (3) and (4), we will pay your expense to remove debris of Covered Property and other debris that is on the described premises, when such debris is caused by or results from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date of direct physical loss or damage.
- (2) Debris Removal does not apply to costs to:
 - (a) Remove debris of property of yours that is not insured under this policy, or property in your possession that is not Covered Property;
 - (b) Remove debris of property owned by or leased to the landlord of the building here our described premises are located, unless you have a contractual responsibility to insure such property and it is insured under this policy;
 - (c) Remove any property that is Property Not Covered, including property addressed under the Outdoor Property Coverage Extension;
 - (d) Remove property of others of a type that would not be Covered Property under this policy;
 - (e) Remove deposits of mud or earth from the grounds of the described premises;
 - (f) Extract "pollutants" from land or water; or
 - (g) Remove, restore or replace polluted land or water.
- (3) Subject to the exceptions in Paragraph (4), the following provisions apply:
 - (a) The most that we will pay for the total of direct physical loss or damage plus debris removal expense is the Limit of Insurance applicable to the Covered Property that has sustained loss or damage.

(b) Subject to Paragraph (3)(a) above, the amount we will pay for debris removal expense is limited to 25% of the sum of the deductible plus the amount that we pay for direct physical loss or damage to the Covered Property that has sustained loss or damage. However, if no Covered Property has sustained direct physical loss or damage, the most we will pay for removal of debris of other property (if such removal is covered under this Additional Coverage) is \$5,000 at each location.

(4) We will pay up to an additional \$25,000 for debris removal expense, for each location, in any one occurrence of physical loss or damage to Covered Property, if one or both of the following circumstances apply:

(a) The total of the actual debris removal expense plus the amount we pay for direct physical loss or damage exceeds the Limit of Insurance on the Covered Property that has sustained loss or damage.

(b) The actual debris removal expense exceeds 25% of the sum of the deductible plus the amount that we pay for direct physical loss or damage to the Covered Property that has sustained loss or damage.

Therefore, if Paragraphs (4)(a) and/or (4)(b) apply, our total payment for direct physical loss or damage and debris removal expense may reach but will never exceed the Limit of Insurance on the Covered Property that has sustained loss or damage, plus \$25,000.

(5) Examples

Example 1

Limit of Insurance	\$ 90,000
Amount of Deductible	\$ 500
Amount of Loss	\$ 50,000
Amount of Loss Payable	\$ 49,500
	(\$50,000 - \$500)
Debris Removal Expense	\$ 10,000
Debris Removal Expense Payable	\$ 10,000
	(\$10,000 is 20% of \$50,000)

The debris removal expense is less than 25% of the sum of the loss payable plus the deductible. The sum of the loss payable and the debris removal expense (\$49,500 + \$10,000 = \$59,500) is less than the Limit of Insurance. Therefore, the full amount of debris removal expense is payable in accordance with the terms of Paragraph (3).

Example 2

Limit of Insurance	\$ 90,000
Amount of Deductible	\$ 500
Amount of Loss	\$ 80,000
Amount of Loss Payable	\$ 79,500
	(\$80,000 - \$500)
Debris Removal Expense	\$ 40,000
Debris Removal Expense Payable	
Basic Amount	\$ 10,500
Additional Amount	\$ 25,000

The basic amount payable for debris removal expense under the terms of Paragraph (3) is calculated as follows: \$80,000 (\$79,500 + \$500) x .25 = \$20,000; capped at \$10,500. The cap applies because the sum of the loss payable (\$79,500) and the basic amount payable for debris removal expense (\$10,500) cannot exceed the Limit of Insurance (\$90,000).

The additional amount payable for debris removal expense is provided in accordance with the terms of Paragraph (4), because the debris removal expense (\$40,000) exceeds 25% of the loss payable plus the deductible (\$40,000 is 50% of \$80,000), and because the sum of the loss payable and debris removal expense (\$79,500 + \$40,000 = \$119,500) would exceed the Limit of Insurance (\$90,000). The additional amount of covered debris removal expense is \$25,000, the maximum payable under Paragraph (4). Thus, the total payable for debris removal in this example is \$35,000; \$4,500 of the debris removal expense is not covered.

b. Preservation Of Property

If it is necessary to move Covered Property from the described premises to preserve it from loss or damage by a Covered Cause of Loss, we will pay for any direct physical loss of or damage to that property:

- (1) While it is being moved or while temporarily stored at another location; and
- (2) Only if the loss or damage occurs within 30 days after the property is first moved.

c. Fire Department Service Charge

When the fire department is called to save or protect Covered Property from a Covered Cause of Loss, we will pay up to \$2,500 for service at each premises described in the Declarations, unless a different limit is shown in the Declarations. Such limit is the most we will pay regardless of the number of responding fire departments or fire units, and regardless of the number or type of services performed.

This Additional Coverage applies to your liability for fire department service charges:

- (1) Assumed by contract or agreement prior to loss; or
- (2) Required by local ordinance.

d. Collapse

The coverage provided under this Additional Coverage – Collapse applies only to an abrupt collapse as described and limited in Paragraphs d.(1) through d.(7).

- (1) For the purpose of this Additional Coverage – Collapse, abrupt collapse means an abrupt falling down or caving in of a building or any part of a building with the result that the building or part of the building cannot be occupied for its intended purpose.
- (2) We will pay for direct physical loss or damage to Covered Property, caused by abrupt collapse of a building or any part of a building that is insured under this policy or that contains Covered Property insured under this policy, if such collapse is caused by one or more of the following:
 - (a) Building decay that is hidden from view, unless the presence of such decay is known to an insured prior to collapse;

- (b) Insect or vermin damage that is hidden from view, unless the presence of such damage is known to an insured prior to collapse;

- (c) Use of defective material or methods in construction, remodeling or renovation if the abrupt collapse occurs during the course of the construction, remodeling or renovation.

- (d) Use of defective material or methods in construction, remodeling or renovation if the abrupt collapse occurs after the construction, remodeling or renovation is complete, but only if the collapse is caused in part by:
 - (i) A cause of loss listed in Paragraph (2)(a) or (2)(b);
 - (ii) One or more of the "specified causes of loss";
 - (iii) Breakage of building glass;
 - (iv) Weight of people or personal property; or
 - (v) Weight of rain that collects on a roof.

- (3) This Additional Coverage – Collapse does not apply to:

- (a) A building or any part of a building that is in danger of falling down or caving in;

- (b) A part of a building that is standing, even if it has separated from another part of the building; or

- (c) A building that is standing or any part of a building that is standing, even if it shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.

- (4) With respect to the following property:

- (a) Awnings;

- (b) Gutters and downspouts;

- (c) Yard fixtures;

- (d) Outdoor swimming pools;

- (e) Piers, wharves and docks;

- (f) Beach or diving platforms or appurtenances;

- (g) Retaining walls; and

- (h) Walks, roadways and other paved surfaces;

if an abrupt collapse is caused by a cause of loss listed in Paragraphs (2)(a) through (2)(d), we will pay for loss or damage to that property only if such loss or damage is a direct result of the abrupt collapse of a building insured under this policy and the property is Covered Property under this policy.

- (5) If personal property abruptly falls down or caves in and such collapse is not the result of abrupt collapse of a building, we will pay for loss or damage to Covered Property caused by such collapse of personal property only if:

- (a) The collapse of personal property was caused by a cause of loss listed in Paragraphs (2)(a) through (2)(d) of this Additional Coverage;
- (b) The personal property which collapses is inside a building; and
- (c) The property which collapses is not of a kind listed in Paragraph (4), regardless of whether that kind of property is considered to be personal property or real property.

The coverage stated in this Paragraph (5) does not apply to personal property if marring and/or scratching is the only damage to that personal property caused by the collapse.

- (6) This Additional Coverage – Collapse does not apply to personal property that has not abruptly fallen down or caved in, even if the personal property shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.
- (7) This Additional Coverage – Collapse will not increase the Limits of Insurance provided in this policy.
- (8) The term Covered Cause of Loss includes the Additional Coverage – Collapse as described and limited in Paragraphs d.(1) through d.(7).

e. Water Damage, Other Liquids, Powder Or Molten Material Damage

If loss or damage caused by or resulting from covered water or other liquid, powder or molten material occurs, we will also pay the cost to tear out and replace any part of the building or structure to repair damage to the system or appliance from which the water or other substance escapes.

We will not pay the cost to repair any defect that caused the loss or damage, but we will pay the cost to repair or replace damaged parts of fire extinguishing equipment if the damage:

- (1) Results in discharge of any substance from an automatic fire protection system; or
- (2) Is directly caused by freezing.

f. Business Income

(1) Business Income

- (a) We will pay for the actual loss of Business Income you sustain due to the necessary suspension of your "operations" during the "period of restoration". The suspension must be caused by direct physical loss of or damage to property at the described premises. The loss or damage must be caused by or result from a Covered Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 100 feet of such premises.

With respect to the requirements set forth in the preceding paragraph, if you occupy only part of a building, your premises mean:

- (i) The portion of the building which you rent, lease or occupy;
- (ii) The area within 100 feet of the building or within 100 feet of the premises described in the Declarations, whichever distance is greater (with respect to loss of or damage to personal property in the open or personal property in a vehicle); and
- (iii) Any area within the building or at the described premises, if that area services, or is used to gain access to, the portion of the building which you rent, lease or occupy.

(b) We will only pay for loss of Business Income that you sustain during the "period of restoration" and that occurs within 12 consecutive months after the date of direct physical loss or damage. We will only pay for ordinary payroll expenses for 60 days following the date of direct physical loss or damage, unless a greater number of days is shown in the Declarations.

(c) Business Income means the:

- (i) Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred if no physical loss or damage had occurred, but not including any Net Income that would likely have been earned as a result of an increase in the volume of business due to favorable business conditions caused by the impact of the Covered Cause of Loss on customers or on other businesses; and
- (ii) Continuing normal operating expenses incurred, including payroll.

(d) Ordinary payroll expenses:

- (i) Means payroll expenses for all your employees except:
 - i. Officers;
 - ii. Executives;
 - iii. Department Managers;
 - iv. Employees under contract; and
 - v. Additional Exemptions shown in the Declarations as:
 - Job Classifications; or
 - Employees.
- (ii) Include:
 - i. Payroll;
 - ii. Employee benefits, if directly related to payroll;
 - iii. FICA payments you pay;
 - iv. Union dues you pay; and
 - v. Workers' compensation premiums.

(2) Extended Business Income

(a) If the necessary suspension of your "operations" produces a Business Income loss payable under this policy, we will pay for the actual loss of Business Income you incur during the period that:

(i) Begins on the date property except finished stock is actually repaired, rebuilt or replaced and "operations" are resumed; and

(ii) Ends on the earlier of:

- i. The date you could restore your "operations", with reasonable speed, to the level which would generate the Business Income amount that would have existed if no direct physical loss or damage had occurred; or
- ii. 60 consecutive days after the date determined in Paragraph (a)(i) above, unless a greater number of consecutive days is shown in the Declarations.

However, Extended Business Income does not apply to loss of Business Income incurred as a result of unfavorable business conditions caused by the impact of the Covered Cause of Loss in the area where the described premises are located.

(b) Loss of Business Income must be caused by direct physical loss or damage at the described premises caused by or resulting from any Covered Cause of Loss.

(3) With respect to the coverage provided in this Additional Coverage, suspension means:

- (a) The partial slowdown or complete cessation of your business activities; or
- (b) That a part or all of the described premises is rendered untenable, if coverage for Business Income applies.

(4) This Additional Coverage is not subject to the Limits of Insurance of Section I – Property.

g. Extra Expense

- (1) We will pay necessary Extra Expense you incur during the "period of restoration" that you would not have incurred if there had been no direct physical loss or damage to property at the described premises. The loss or damage must be caused by or result from a Covered Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 100 feet of such premises.

With respect to the requirements set forth in the preceding paragraph, if you occupy only part of a building, your premises mean:

- (a) The portion of the building which you rent, lease or occupy;
 - (b) The area within 100 feet of the building or within 100 feet of the premises described in the Declarations, whichever distance is greater (with respect to loss of or damage to personal property in the open or personal property in a vehicle); and
 - (c) Any area within the building or at the described premises, if that area services, or is used to gain access to, the portion of the building which you rent, lease or occupy.
- (2) Extra Expense means expense incurred:
- (a) To avoid or minimize the suspension of business and to continue "operations":
 - (i) At the described premises; or
 - (ii) At replacement premises or at temporary locations, including relocation expenses, and costs to equip and operate the replacement or temporary locations.
 - (b) To minimize the suspension of business if you cannot continue "operations".

(c) To:

- (i) Repair or replace any property; or

- (ii) Research, replace or restore the lost information on damaged "valuable papers and records";

to the extent it reduces the amount of loss that otherwise would have been payable under this Additional Coverage or Additional Coverage f. Business Income.

- (3) With respect to the coverage provided in this Additional Coverage, suspension means:

- (a) The partial slowdown or complete cessation of your business activities; or

- (b) That a part or all of the described premises is rendered untenable, if coverage for Business Income applies.

- (4) We will only pay for Extra Expense that occurs within 12 consecutive months after the date of direct physical loss or damage. This Additional Coverage is not subject to the Limits of Insurance of Section I – Property.

h. Pollutant Clean-up And Removal

We will pay your expense to extract "pollutants" from land or water at the described premises if the discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused by or results from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date on which the Covered Cause of Loss occurs.

This Additional Coverage does not apply to costs to test for, monitor or assess the existence, concentration or effects of "pollutants". But we will pay for testing which is performed in the course of extracting the "pollutants" from the land or water.

The most we will pay for each location under this Additional Coverage is \$10,000 for the sum of all such expenses arising out of Covered Causes of Loss occurring during each separate 12-month period of this policy.

i. Civil Authority

When a Covered Cause of Loss causes damage to property other than property at the described premises, we will pay for the actual loss of Business Income you sustain and necessary Extra Expense caused by action of civil authority that prohibits access to the described premises, provided that both of the following apply:

- (1) Access to the area immediately surrounding the damaged property is prohibited by civil authority as a result of the damage, and the described premises are within that area but are not more than one mile from the damaged property; and
- (2) The action of civil authority is taken in response to dangerous physical conditions resulting from the damage or continuation of the Covered Cause of Loss that caused the damage, or the action is taken to enable a civil authority to have unimpeded access to the damaged property.

Civil Authority Coverage for Business Income will begin 72 hours after the time of the first action of civil authority that prohibits access to the described premises and will apply for a period of up to four consecutive weeks from the date on which such coverage began.

Civil Authority Coverage for necessary Extra Expense will begin immediately after the time of the first action of civil authority that prohibits access to the described premises and will end:

- (1) Four consecutive weeks after the date of that action; or
- (2) When your Civil Authority Coverage for Business Income ends;

whichever is later.

The definitions of Business Income and Extra Expense contained in the Business Income and Extra Expense Additional Coverages also apply to this Civil Authority Additional Coverage. The Civil Authority Additional Coverage is not subject to the Limits of Insurance of Section I – Property.

j. Money Orders And "Counterfeit Money"

We will pay for loss resulting directly from your having accepted in good faith, in exchange for merchandise, "money" or services:

- (1) Money orders issued by any post office, express company or bank that are not paid upon presentation; or
- (2) "Counterfeit money" that is acquired during the regular course of business.

The most we will pay for any loss under this Additional Coverage is \$1,000.

k. Forgery Or Alteration

- (1) We will pay for loss resulting directly from forgery or alteration of any check, draft, promissory note, bill of exchange or similar written promise of payment in "money" that you or your agent has issued, or that was issued by someone who impersonates you or your agent.
- (2) If you are sued for refusing to pay the check, draft, promissory note, bill of exchange or similar written promise of payment in "money", on the basis that it has been forged or altered, and you have our written consent to defend against the suit, we will pay for any reasonable legal expenses that you incur in that defense.
- (3) For the purpose of this coverage, check includes a substitute check as defined in the Check Clearing for the 21st Century Act and will be treated the same as the original it replaced.
- (4) The most we will pay for any loss, including legal expenses, under this Additional Coverage is \$2,500, unless a higher Limit Of Insurance is shown in the Declarations.

l. Increased Cost Of Construction

- (1) This Additional Coverage applies only to buildings insured on a replacement cost basis.
- (2) In the event of damage by a Covered Cause of Loss to a building that is Covered Property, we will pay the increased costs incurred to comply with the minimum standards of an ordinance or law in the course of repair, rebuilding or replacement of damaged parts of that property, subject to the limitations stated in Paragraphs (3) through (9) of this Additional Coverage.

(3) The ordinance or law referred to in Paragraph (2) of this Additional Coverage is an ordinance or law that regulates the construction or repair of buildings or establishes zoning or land use requirements at the described premises and is in force at the time of loss.

(4) Under this Additional Coverage, we will not pay any costs due to an ordinance or law that:

(a) You were required to comply with before the loss, even when the building was undamaged; and

(b) You failed to comply with.

(5) Under this Additional Coverage, we will not pay for:

(a) The enforcement of or compliance with any ordinance or law which requires demolition, repair, replacement, reconstruction, remodeling or remediation of property due to contamination by "pollutants" or due to the presence, growth, proliferation, spread or any activity of "fungi", wet rot or dry rot; or

(b) Any costs associated with the enforcement of or compliance with an ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants", "fungi", wet rot or dry rot.

(6) The most we will pay under this Additional Coverage, for each described building insured under Section I – Property, is \$10,000. If a damaged building(s) is covered under a blanket Limit of Insurance which applies to more than one building or item of property, then the most we will pay under this Additional Coverage, for each damaged building, is \$10,000.

The amount payable under this Additional Coverage is additional insurance.

(7) With respect to this Additional Coverage:

(a) We will not pay for the Increased Cost of Construction:

(i) Until the property is actually repaired or replaced, at the same or another premises; and

(ii) Unless the repair or replacement is made as soon as reasonably possible after the loss or damage, not to exceed two years. We may extend this period in writing during the two years.

(b) If the building is repaired or replaced at the same premises, or if you elect to rebuild at another premises, the most we will pay for the Increased Cost of Construction is the increased cost of construction at the same premises.

(c) If the ordinance or law requires relocation to another premises, the most we will pay for the Increased Cost of Construction is the increased cost of construction at the new premises.

(8) This Additional Coverage is not subject to the terms of the Ordinance Or Law Exclusion, to the extent that such exclusion would conflict with the provisions of this Additional Coverage.

(9) The costs addressed in the Loss Payment Property Loss Condition in Section I – Property do not include the increased cost attributable to enforcement of or compliance with an ordinance or law. The amount payable under this Additional Coverage, as stated in Paragraph (6) of this Additional Coverage, is not subject to such limitation.

m. Business Income From Dependent Properties

(1) We will pay for the actual loss of Business Income you sustain due to physical loss or damage at the premises of a dependent property or secondary dependent property caused by or resulting from any Covered Cause of Loss.

However, this Additional Coverage does not apply when the only loss at the premises of a dependent property or secondary dependent property is loss or damage to "electronic data", including destruction or corruption of "electronic data". If the dependent property or secondary dependent property sustains loss or damage to "electronic data" and other property, coverage under this Additional Coverage will not continue once the other property is repaired, rebuilt or replaced.

The most we will pay under this Additional Coverage is \$5,000 unless a higher Limit Of Insurance is indicated in the Declarations.

- (2) We will reduce the amount of your Business Income loss, other than Extra Expense, to the extent you can resume "operations", in whole or in part, by using any other available:

- (a) Source of materials; or
- (b) Outlet for your products.

- (3) If you do not resume "operations", or do not resume "operations" as quickly as possible, we will pay based on the length of time it would have taken to resume "operations" as quickly as possible.

- (4) Dependent property means property owned by others whom you depend on to:

- (a) Deliver materials or services to you, or to others for your account. But services does not mean water supply services, wastewater removal services, communication supply services or power supply services;
- (b) Accept your products or services;
- (c) Manufacture your products for delivery to your customers under contract for sale; or
- (d) Attract customers to your business.

The dependent property must be located in the coverage territory of this policy.

- (5) Secondary dependent property means an entity which is not owned or operated by a dependent property and which;

- (a) Delivers materials or services to a dependent property, which in turn are used by the dependent property in providing materials or services to you; or

- (b) Accepts materials or services from a dependent property, which in turn accepts your materials or services.

A road, bridge, tunnel, waterway, airfield, pipeline or any other similar area or structure is not a secondary dependent property.

Any property which delivers any of the following services is not a secondary dependent property with respect to such services:

- (i) Water supply services;
- (ii) Wastewater removal services;
- (iii) Communication supply services;
- or
- (iv) Power supply services.

The secondary dependent property must be located in the coverage territory of this policy.

- (6) The coverage period for Business Income under this Additional Coverage:

- (a) Begins 72 hours after the time of direct physical loss or damage caused by or resulting from any Covered Cause of Loss at the premises of the dependent property or secondary dependent property; and

- (b) Ends on the date when the property at the premises of the dependent property or secondary dependent property should be repaired, rebuilt or replaced with reasonable speed and similar quality.

- (7) The Business Income coverage period, as stated in Paragraph (6), does not include any increased period required due to the enforcement of or compliance with any ordinance or law that:

- (a) Regulates the construction, use or repair, or requires the tearing down of any property; or
- (b) Requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

The expiration date of this policy will not reduce the Business Income coverage period.

- (8) The definition of Business Income contained in the Business Income Additional Coverage also applies to this Business Income From Dependent Properties Additional Coverage.

n. Glass Expenses

- (1) We will pay for expenses incurred to put up temporary plates or board up openings if repair or replacement of damaged glass is delayed.
- (2) We will pay for expenses incurred to remove or replace obstructions when repairing or replacing glass that is part of a building. This does not include removing or replacing window displays.

o. Fire Extinguisher Systems Recharge Expense

- (1) We will pay:
- (a) The cost of recharging or replacing, whichever is less, your fire extinguishers and fire extinguishing systems (including hydrostatic testing if needed) if they are discharged on or within 100 feet of the described premises; and
 - (b) For loss or damage to Covered Property if such loss or damage is the result of an accidental discharge of chemicals from a fire extinguisher or a fire extinguishing system.
- (2) No coverage will apply if the fire extinguishing system is discharged during installation or testing.
- (3) The most we will pay under this Additional Coverage is \$5,000 in any one occurrence.

p. Electronic Data

- (1) Subject to the provisions of this Additional Coverage, we will pay for the cost to replace or restore "electronic data" which has been destroyed or corrupted by a Covered Cause of Loss. To the extent that "electronic data" is not replaced or restored, the loss will be valued at the cost of replacement of the media on which the "electronic data" was stored, with blank media of substantially identical type.

- (2) The Covered Causes of Loss applicable to Business Personal Property include a computer virus, harmful code or similar instruction introduced into or enacted on a computer system (including "electronic data") or a network to which it is connected, designed to damage or destroy any part of the system or disrupt its normal operation. But there is no coverage for loss or damage caused by or resulting from manipulation of a computer system (including "electronic data") by any employee, including a temporary or leased employee, or by an entity retained by you, or for you, to inspect, design, install, modify, maintain, repair or replace that system.

- (3) The most we will pay under this Additional Coverage – Electronic Data for all loss or damage sustained in any one policy year, regardless of the number of occurrences of loss or damage or the number of premises, locations or computer systems involved, is \$10,000, unless a higher Limit Of Insurance is shown in the Declarations. If loss payment on the first occurrence does not exhaust this amount, then the balance is available for subsequent loss or damage sustained in, but not after, that policy year. With respect to an occurrence which begins in one policy year and continues or results in additional loss or damage in a subsequent policy year(s), all loss or damage is deemed to be sustained in the policy year in which the occurrence began.

- (4) This Additional Coverage does not apply to your "stock" of prepackaged software, or to "electronic data" which is integrated in and operates or controls a building's elevator, lighting, heating, ventilation, air conditioning or security system.

q. Interruption Of Computer Operations

- (1) Subject to all provisions of this Additional Coverage, you may extend the insurance that applies to Business Income and Extra Expense to apply to a suspension of "operations" caused by an interruption in computer operations due to destruction or corruption of "electronic data" due to a Covered Cause of Loss

- (2) With respect to the coverage provided under this Additional Coverage, the Covered Causes of Loss are subject to the following:

 - (a) Coverage under this Additional Coverage – Interruption Of Computer Operations is limited to the "specified causes of loss" and Collapse.
 - (b) If the Businessowners Coverage Form is endorsed to add a Covered Cause of Loss, the additional Covered Cause of Loss does not apply to the coverage provided under this Additional Coverage.
 - (c) The Covered Causes of Loss include a computer virus, harmful code or similar instruction introduced into or enacted on a computer system (including "electronic data") or a network to which it is connected, designed to damage or destroy any part of the system or disrupt its normal operation. But there is no coverage for an interruption related to manipulation of a computer system (including "electronic data") by any employee, including a temporary or leased employee, or by an entity retained by you, or for you, to inspect, design, install, modify, maintain, repair or replace that system.
- (3) The most we will pay under this Additional Coverage – Interruption Of Computer Operations for all loss sustained and expense incurred in any one policy year, regardless of the number of interruptions or the number of premises, locations or computer systems involved, is \$10,000 unless a higher Limit Of Insurance is shown in the Declarations. If loss payment relating to the first interruption does not exhaust this amount, then the balance is available for loss or expense sustained or incurred as a result of subsequent interruptions in that policy year. A balance remaining at the end of a policy year does not increase the amount of insurance in the next policy year. With respect to any interruption which begins in one policy year and continues or results in additional loss or expense in a subsequent policy year(s), all loss and expense is deemed to be sustained or incurred in the policy year in which the interruption began.
- (4) This Additional Coverage – Interruption Of Computer Operations does not apply to loss sustained or expense incurred after the end of the "period of restoration", even if the amount of insurance stated in (3) above has not been exhausted.
- (5) Coverage for Business Income does not apply when a suspension of "operations" is caused by destruction or corruption of "electronic data", or any loss or damage to "electronic data", except as provided under Paragraphs (1) through (4) of this Additional Coverage.

(6) Coverage for Extra Expense does not apply when action is taken to avoid or minimize a suspension of "operations" caused by destruction or corruption of "electronic data", or any loss or damage to "electronic data", except as provided under Paragraphs (1) through (4) of this Additional Coverage.

(7) This Additional Coverage does not apply when loss or damage to "electronic data" involves only "electronic data" which is integrated in and operates or controls a building's elevator, lighting, heating, ventilation, air conditioning or security system.

r. Limited Coverage For "Fungi", Wet Rot Or Dry Rot

(1) The coverage described in Paragraphs r.(2) and r.(6) only applies when the "fungi", wet rot or dry rot is the result of a "specified cause of loss" other than fire or lightning that occurs during the policy period and only if all reasonable means were used to save and preserve the property from further damage at the time of and after that occurrence.

This Additional Coverage does not apply to lawns, trees, shrubs or plants which are part of a vegetated roof.

(2) We will pay for loss or damage by "fungi", wet rot or dry rot. As used in this Limited Coverage, the term loss or damage means:

(a) Direct physical loss or damage to Covered Property caused by "fungi", wet rot or dry rot, including the cost of removal of the "fungi", wet rot or dry rot;

(b) The cost to tear out and replace any part of the building or other property as needed to gain access to the "fungi", wet rot or dry rot; and

(c) The cost of testing performed after removal, repair, replacement or restoration of the damaged property is completed, provided there is a reason to believe that "fungi", wet rot or dry rot is present.

(3) The coverage described under this Limited Coverage is limited to \$15,000. Regardless of the number of claims, this limit is the most we will pay for the total of all loss or damage arising out of all occurrences of "specified causes of loss" (other than fire or lightning) which take place in a 12-month period (starting with the beginning of the present annual policy period). With respect to a particular occurrence of loss which results in "fungi", wet rot or dry rot, we will not pay more than the total of \$15,000 even if the "fungi", wet rot or dry rot continues to be present or active, or recurs, in a later policy period

(4) The coverage provided under this Limited Coverage does not increase the applicable Limit of Insurance on any Covered Property. If a particular occurrence results in loss or damage by "fungi", wet rot or dry rot, and other loss or damage, we will not pay more, for the total of all loss or damage, than the applicable Limit of Insurance on the affected Covered Property.

If there is covered loss or damage to Covered Property, not caused by "fungi", wet rot or dry rot, loss payment will not be limited by the terms of this Limited Coverage, except to the extent that "fungi", wet rot or dry rot causes an increase in the loss. Any such increase in the loss will be subject to the terms of this Limited Coverage.

(5) The terms of this Limited Coverage do not increase or reduce the coverage provided under the Water Damage, Other Liquids, Powder Or Molten Material Damage or Collapse Additional Coverages.

(6) The following applies only if Business Income and/or Extra Expense Coverage applies to the described premises and only if the suspension of "operations" satisfies all the terms and conditions of the applicable Business Income and/or Extra Expense Additional Coverage:

- (a) If the loss which resulted in "fungi", wet rot or dry rot does not in itself necessitate a suspension of "operations", but such suspension is necessary due to loss or damage to property caused by "fungi", wet rot or dry rot, then our payment under the Business Income and/or Extra Expense Additional Coverages is limited to the amount of loss and/or expense sustained in a period of not more than 30 days. The days need not be consecutive.
- (b) If a covered suspension of "operations" was caused by loss or damage other than "fungi", wet rot or dry rot, but remediation of "fungi", wet rot or dry rot prolongs the "period of restoration", we will pay for loss and/or expense sustained during the delay (regardless of when such a delay occurs during the "period of restoration"), but such coverage is limited to 30 days. The days need not be consecutive.

6. Coverage Extensions

In addition to the Limits of Insurance of Section I – Property, you may extend the insurance provided by this policy as provided below.

Except as otherwise provided, the following extensions apply to property located in or on the building described in the Declarations or in the open (or in a vehicle) within 100 feet of the described premises:

a. Newly Acquired Or Constructed Property

(1) Buildings

If this policy covers Buildings, you may extend that insurance to apply to:

- (a) Your new buildings while being built on the described premises; and
- (b) Buildings you acquire at premises other than the one described, intended for:
 - (i) Similar use as the building described in the Declarations; or
 - (ii) Use as a warehouse.

The most we will pay for loss or damage under this Extension is \$250,000 at each building.

(2) Business Personal Property

If this policy covers Business Personal Property, you may extend that insurance to apply to:

- (a) Business Personal Property, including such property that you newly acquire, at any location you acquire; or
- (b) Business Personal Property, including such property that you newly acquire, located at your newly constructed or acquired buildings at the location described in the Declarations.

This Extension does not apply to personal property that you temporarily acquire in the course of installing or performing work on such property or your wholesale activities.

The most we will pay for loss or damage under this Extension is \$100,000 at each building.

(3) Period Of Coverage

With respect to insurance provided under this Coverage Extension for Newly Acquired Or Constructed Property, coverage will end when any of the following first occurs:

- (a) This policy expires;
- (b) 30 days expire after you acquire the property or begin construction of that part of the building that would qualify as Covered Property; or
- (c) You report values to us.

We will charge you additional premium for values reported from the date you acquire the property or begin construction of that part of the building that would qualify as Covered Property.

b. Personal Property Off-premises

You may extend the insurance provided by this policy to apply to your Covered Property, other than "money" and "securities", "valuable papers and records" or accounts receivable, while it is in the course of transit or at a premises you do not own, lease or operate. The most we will pay for loss or damage under this Extension is \$10,000.

c. Outdoor Property

You may extend the insurance provided by this policy to apply to your outdoor fences, radio and television antennas (including satellite dishes), signs (other than signs attached to buildings), trees, shrubs and plants (other than trees, shrubs or plants which are part of a vegetated roof), including debris removal expense. Loss or damage must be caused by or result from any of the following causes of loss:

- (1) Fire;
- (2) Lightning;
- (3) Explosion;
- (4) Riot or Civil Commotion; or
- (5) Aircraft.

The most we will pay for loss or damage under this Extension is \$2,500, unless a higher Limit Of Insurance for Outdoor Property is shown in the Declarations, but not more than \$1,000 for any one tree, shrub or plant.

Subject to all aforementioned terms and limitations of coverage, this Coverage Extension includes the expense of removing from the described premises the debris of trees, shrubs and plants which are the property of others, except in the situation in which you are a tenant and such property is owned by the landlord of the described premises.

d. Personal Effects

You may extend the insurance that applies to Business Personal Property to apply to personal effects owned by you, your officers, your partners or "members", your "managers" or your employees, including temporary or leased employees. This extension does not apply to:

- (1) Tools or equipment used in your business; or
- (2) Loss or damage by theft.

The most we will pay for loss or damage under this Extension is \$2,500 at each described premises.

e. Valuable Papers And Records

- (1) You may extend the insurance that applies to Business Personal Property to apply to direct physical loss or damage to "valuable papers and records" that you own, or that are in your care, custody or control, caused by or resulting from a Covered Cause of Loss. This Coverage Extension includes the cost to research, replace or restore the lost information on "valuable papers and records" for which duplicates do not exist.
- (2) This Coverage Extension does not apply to:
 - (a) Property held as samples or for delivery after sale; and
 - (b) Property in storage away from the premises shown in the Declarations.
- (3) The most we will pay under this Coverage Extension for loss or damage to "valuable papers and records" in any one occurrence at the described premises is \$10,000, unless a higher Limit Of Insurance for "valuable papers and records" is shown in the Declarations.

For "valuable papers and records" not at the described premises, the most we will pay is \$5,000.

- (4) Loss or damage to "valuable papers and records" will be valued at the cost of restoration or replacement of the lost or damaged information. To the extent that the contents of the "valuable papers and records" are not restored, the "valuable papers and records" will be valued at the cost of replacement with blank materials of substantially identical type.
- (5) Paragraph B. Exclusions in Section I – Property does not apply to this Coverage Extension except for:
 - (a) Paragraph B.1.c., Governmental Action;
 - (b) Paragraph B.1.d., Nuclear Hazard;
 - (c) Paragraph B.1.f., War And Military Action;

- (d) Paragraph B.2.f., Dishonesty;
- (e) Paragraph B.2.g., False Pretense;
- (f) Paragraph B.2.m.(2), Errors Or Omissions; and
- (g) Paragraph B.3.

f. Accounts Receivable

- (1) You may extend the insurance that applies to Business Personal Property to apply to accounts receivable. We will pay:
 - (a) All amounts due from your customers that you are unable to collect;
 - (b) Interest charges on any loan required to offset amounts you are unable to collect pending our payment of these amounts;
 - (c) Collection expenses in excess of your normal collection expenses that are made necessary by loss or damage; and
 - (d) Other reasonable expenses that you incur to reestablish your records of accounts receivable;

that result from direct physical loss or damage by any Covered Cause of Loss to your records of accounts receivable.

- (2) The most we will pay under this Coverage Extension for loss or damage in any one occurrence at the described premises is \$10,000, unless a higher Limit of Insurance for accounts receivable is shown in the Declarations.

For accounts receivable not at the described premises, the most we will pay is \$5,000.

- (3) Paragraph B. Exclusions in Section I – Property does not apply to this Coverage Extension except for:

- (a) Paragraph B.1.c., Governmental Action;
- (b) Paragraph B.1.d., Nuclear Hazard;
- (c) Paragraph B.1.f., War And Military Action;
- (d) Paragraph B.2.f., Dishonesty;
- (e) Paragraph B.2.g., False Pretense;
- (f) Paragraph B.3.; and
- (g) Paragraph B.6., Accounts Receivable Exclusion.

g. Business Personal Property Temporarily In Portable Storage Units

- (1) You may extend the insurance that applies to Business Personal Property to apply to such property while temporarily stored in a portable storage unit (including a detached trailer) located within 100 feet of the buildings or structures described in the Declarations or within 100 feet of the described premises, whichever distance is greater.
- (2) The limitation under Paragraph A.4.a.(5) also applies to property in a portable storage unit.
- (3) Coverage under this Extension:
 - (a) Will end 90 days after the Business Personal Property has been placed in the storage unit;
 - (b) Does not apply if the storage unit itself has been in use at the described premises for more than 90 consecutive days, even if the Business Personal Property has been stored there for 90 or fewer days as of the time of loss or damage.
- (4) Under this Extension, the most we will pay for the total of all loss or damage to Business Personal Property is \$10,000 (unless a higher limit is indicated in the Declarations for such Extension) regardless of the number of storage units.
- (5) This Extension does not apply to loss or damage otherwise covered under this Coverage Form or any endorsement to this Coverage Form, and does not apply to loss or damage to the storage unit itself.

B. Exclusions

- 1. We will not pay for loss or damage caused directly or indirectly by any of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss. These exclusions apply whether or not the loss event results in widespread damage or affects a substantial area.

a. Ordinance Or Law

- (1) The enforcement of or compliance with any ordinance or law:
 - (a) Regulating the construction, use or repair of any property; or

(b) Requiring the tearing down of any property, including the cost of removing its debris.

(2) This exclusion, Ordinance Or Law, applies whether the loss results from:

(a) An ordinance or law that is enforced even if the property has not been damaged; or

(b) The increased costs incurred to comply with an ordinance or law in the course of construction, repair, renovation, remodeling or demolition of property or removal of its debris, following a physical loss to that property.

b. Earth Movement

(1) Earthquake, including tremors and aftershocks and any earth sinking, rising or shifting related to such event;

(2) Landslide, including any earth sinking, rising or shifting related to such event;

(3) Mine subsidence, meaning subsidence of a man-made mine, whether or not mining activity has ceased;

(4) Earth sinking (other than sinkhole collapse), rising or shifting including soil conditions which cause settling, cracking or other disarrangement of foundations or other parts of realty. Soil conditions include contraction, expansion, freezing, thawing, erosion, improperly compacted soil and the action of water under the ground surface.

But if Earth Movement, as described in Paragraphs (1) through (4) above, results in fire or explosion, we will pay for the loss or damage caused by that fire or explosion.

(5) Volcanic eruption, explosion or effusion. But if volcanic eruption, explosion or effusion results in fire, building glass breakage or volcanic action, we will pay for the loss or damage caused by that fire, building glass breakage or volcanic action.

Volcanic action means direct loss or damage resulting from the eruption of a volcano when the loss or damage is caused by:

(a) Airborne volcanic blast or airborne shock waves;

(b) Ash, dust or particulate matter; or

(c) Lava flow.

With respect to coverage for volcanic action as set forth in 5(a), (5)(b) and 5(c), all volcanic eruptions that occur within any 168-hour period will constitute a single occurrence.

Volcanic action does not include the cost to remove ash, dust or particulate matter that does not cause direct physical loss of or damage to Covered Property.

This exclusion applies regardless of whether any of the above, in Paragraphs (1) through (5), is caused by an act of nature or is otherwise caused.

c. Governmental Action

Seizure or destruction of property by order of governmental authority.

But we will pay for loss or damage caused by or resulting from acts of destruction ordered by governmental authority and taken at the time of a fire to prevent its spread, if the fire would be covered under this policy.

d. Nuclear Hazard

Nuclear reaction or radiation, or radioactive contamination, however caused.

But if nuclear reaction or radiation, or radioactive contamination, results in fire, we will pay for the loss or damage caused by that fire.

e. Utility Services

The failure of power, communication, water or other utility service supplied to the described premises, however caused, if the failure:

(1) Originates away from the described premises; or

(2) Originates at the described premises, but only if such failure involves equipment used to supply the utility service to the described premises from a source away from the described premises.

Failure of any utility service includes lack of sufficient capacity and reduction in supply.

Loss or damage caused by a surge of power is also excluded, if the surge would not have occurred but for an event causing a failure of power.

But if the failure or surge of power, or the failure of communication, water or other utility service, results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

Communication services include but are not limited to service relating to Internet access or access to any electronic, cellular or satellite network.

This exclusion does not apply to loss or damage to "computer(s)" and "electronic data".

f. War And Military Action

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

g. Water

- (1) Flood, surface water, waves (including tidal wave and tsunami), tides, tidal water, overflow of any body of water, or spray from any of these, all whether or not driven by wind (including storm surge);
- (2) Mudslide or mudflow;
- (3) Water that backs up or overflows or is otherwise discharged from a sewer, drain, sump, sump pump or related equipment;
- (4) Water under the ground surface pressing on, or flowing or seeping through:
 - (a) Foundations, walls, floors or paved surfaces;
 - (b) Basements, whether paved or not; or
 - (c) Doors, windows or other openings; or
- (5) Waterborne material carried or otherwise moved by any of the water referred to in Paragraph (1), (3) or (4), or material carried or otherwise moved by mudslide or mudflow.

This exclusion applies regardless of whether any of the above, in Paragraphs (1) through (5), is caused by an act of nature or is otherwise caused. An example of a situation to which this exclusion applies is the situation where a dam, levee, seawall or other boundary or containment system fails in whole or in part, for any reason, to contain the water.

But if any of the above, in Paragraphs (1) through (5), results in fire, explosion or sprinkler leakage, we will pay for the loss or damage caused by that fire, explosion or sprinkler leakage.

h. Certain Computer-related Losses

(1) The failure, malfunction or inadequacy of:

(a) Any of the following, whether belonging to any insured or to others:

(i) "Computer" hardware, including microprocessors or other electronic data processing equipment as may be described elsewhere in this policy;

(ii) "Computer" application software or other "electronic data" as may be described elsewhere in this policy;

(iii) "Computer" operating systems and related software;

(iv) "Computer" networks;

(v) Microprocessors ("computer" chips) not part of any "computer" system; or

(vi) Any other computerized or electronic equipment or components; or

(b) Any other products, and any services, data or functions that directly or indirectly use or rely upon, in any manner, any of the items listed in Paragraph (a) above;

due to the inability to correctly recognize, distinguish, interpret or accept one or more dates or times. An example is the inability of computer software to recognize the year 2000.

- (2) Any advice, consultation, design, evaluation, inspection, installation, maintenance, repair, replacement or supervision provided or done by you or for you to determine, rectify or test for, any potential or actual problems described in Paragraph (1) above.

However, if excluded loss or damage, as described in Paragraph (1) above, results in a "specified cause of loss" under Section I – Property, we will pay only for the loss or damage caused by such "specified cause of loss".

We will not pay for repair, replacement or modification of any items in Paragraph (1)(a) or (1)(b) to correct any deficiencies or change any features.

i. "Fungi", Wet Rot Or Dry Rot

Presence, growth, proliferation, spread or any activity of "fungi", wet rot or dry rot.

But if "fungi", wet rot or dry rot results in a "specified cause of loss", we will pay for the loss or damage caused by that "specified cause of loss".

This exclusion does not apply:

- (1) When "fungi", wet rot or dry rot results from fire or lightning; or
- (2) To the extent that coverage is provided in the Limited Coverage For "Fungi", Wet Rot Or Dry Rot Additional Coverage, with respect to loss or damage by a cause of loss other than fire or lightning.

j. Virus Or Bacteria

- (1) Any virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness or disease.
- (2) However, the exclusion in Paragraph (1) does not apply to loss or damage caused by or resulting from "fungi", wet rot or dry rot. Such loss or damage is addressed in Exclusion i.
- (3) With respect to any loss or damage subject to the exclusion in Paragraph (1), such exclusion supersedes any exclusion relating to "pollutants".

2. We will not pay for loss or damage caused by or resulting from any of the following:

a. Electrical Apparatus

Artificially generated electrical, magnetic or electromagnetic energy that damages, disturbs, disrupts or otherwise interferes with any:

- (1) Electrical or electronic wire, device, appliance, system or network; or
- (2) Device, appliance, system or network utilizing cellular or satellite technology.

For the purpose of this exclusion, electrical, magnetic or electromagnetic energy includes but is not limited to:

- (1) Electrical current, including arcing;
- (2) Electrical charge produced or conducted by a magnetic or electromagnetic field;
- (3) Pulse of electromagnetic energy; or
- (4) Electromagnetic waves or microwaves.

But if fire results, we will pay for the loss or damage caused by fire.

We will pay for loss or damage to "computer(s)" due to artificially generated electrical, magnetic or electromagnetic energy if such loss or damage is caused by or results from:

- (1) An occurrence that took place within 100 feet of the described premises; or
- (2) Interruption of electric power supply, power surge, blackout or brownout if the cause of such occurrence took place within 100 feet of the described premises.

b. Consequential Losses

Delay, loss of use or loss of market.

c. Smoke, Vapor, Gas

Smoke, vapor or gas from agricultural smudging or industrial operations.

d. Steam Apparatus

Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control. But if explosion of steam boilers, steam pipes, steam engines or steam turbines results in fire or combustion explosion, we will pay for the loss or damage caused by that fire or combustion explosion. We will also pay for loss or damage caused by or resulting from the explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.

e. Frozen Plumbing

Water, other liquids, powder or molten material that leaks or flows from plumbing, heating, air conditioning or other equipment (except fire protective systems) caused by or resulting from freezing, unless:

- (1) You do your best to maintain heat in the building or structure; or
- (2) You drain the equipment and shut off the supply if the heat is not maintained.

f. Dishonesty

Dishonest or criminal acts (including theft) by you, anyone else with an interest in the property, or any of your or their partners, "members", officers, "managers", employees (including temporary or leased employees), directors, trustees or authorized representatives, whether acting alone or in collusion with each other or with any other party; or theft by any person to whom you entrust the property for any purpose, whether acting alone or in collusion with any other party.

This exclusion:

- (1) Applies whether or not an act occurs during your normal hours of operation;
- (2) Does not apply to acts of destruction by your employees (including temporary or leased employees) or authorized representatives; but theft by your employees (including temporary or leased employees) or authorized representatives is not covered.

With respect to accounts receivable and "valuable papers and records", this exclusion does not apply to carriers for hire.

This exclusion does not apply to coverage that is provided under the Employee Dishonesty Optional Coverage.

g. False Pretense

Voluntary parting with any property by you or anyone else to whom you have entrusted the property if induced to do so by any fraudulent scheme, trick, device or false pretense.

h. Exposed Property

Rain, snow, ice or sleet to personal property in the open.

i. Collapse

(1) Collapse, including any of the following conditions of property or any part of the property:

- (a) An abrupt falling down or caving in;
- (b) Loss of structural integrity, including separation of parts of the property or property in danger of falling down or caving in; or
- (c) Any cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion as such condition relates to Paragraph i.(1)(a) or i.(1)(b).

But if collapse results in a Covered Cause of Loss at the described premises, we will pay for the loss or damage caused by that Covered Cause of Loss.

(2) This Exclusion i. does not apply:

- (a) To the extent that coverage is provided under the Additional Coverage – Collapse; or
- (b) To collapse caused by one or more of the following:
 - (i) The "specified causes of loss";
 - (ii) Breakage of building glass;
 - (iii) Weight of rain that collects on a roof; or
 - (iv) Weight of people or personal property.

j. Pollution

We will not pay for loss or damage caused by or resulting from the discharge, dispersal, seepage, migration, release or escape of "pollutants" unless the discharge, dispersal, seepage, migration, release or escape is itself caused by any of the "specified causes of loss". But if the discharge, dispersal, seepage, migration, release or escape of "pollutants" results in a "specified cause of loss", we will pay for the loss or damage caused by that "specified cause of loss".

k. Neglect

Neglect of an insured to use all reasonable means to save and preserve property from further damage at and after the time of loss.

l. Other Types Of Loss

- (1) Wear and tear;
- (2) Rust or other corrosion, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;
- (3) Smog;
- (4) Settling, cracking, shrinking or expansion;
- (5) Nesting or infestation, or discharge or release of waste products or secretions, by insects, birds, rodents or other animals;
- (6) Mechanical breakdown, including rupture or bursting caused by centrifugal force.

This exclusion does not apply with respect to the breakdown of "computer(s)";
- (7) The following causes of loss to personal property:
 - (a) Dampness or dryness of atmosphere;
 - (b) Changes in or extremes of temperature; or
 - (c) Marring or scratching.

But if an excluded cause of loss that is listed in Paragraphs (1) through (7) above results in a "specified cause of loss" or building glass breakage, we will pay for the loss or damage caused by that "specified cause of loss" or building glass breakage.

m. Errors Or Omissions

Errors or omissions in:

- (1) Programming, processing or storing data, as described under "electronic data" or in any "computer" operations; or
- (2) Processing or copying "valuable papers and records".

However, we will pay for direct physical loss or damage caused by resulting fire or explosion if these causes of loss would be covered by this Coverage Form.

n. Installation, Testing, Repair

Errors or deficiency in design, installation, testing, maintenance, modification or repair of your "computer" system including "electronic data".

However, we will pay for direct physical loss or damage caused by resulting fire or explosion if these causes of loss would be covered by this Coverage Form.

o. Electrical Disturbance

Electrical or magnetic injury, disturbance or erasure of "electronic data", except as provided for under the Additional Coverages of Section I – Property.

However, we will pay for direct loss or damage caused by lightning.

p. Continuous Or Repeated Seepage Or Leakage Of Water

Continuous or repeated seepage or leakage of water, or the presence or condensation of humidity, moisture or vapor, that occurs over a period of 14 days or more.

3. We will not pay for loss or damage caused by or resulting from any of the following Paragraphs a. through c. But if an excluded cause of loss that is listed in Paragraphs a. through c. results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

a. Weather Conditions

Weather conditions. But this exclusion only applies if weather conditions contribute in any way with a cause or event excluded in Paragraph B.1. above to produce the loss or damage.

b. Acts Or Decisions

Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.

c. Negligent Work

Faulty, inadequate or defective:

- (1) Planning, zoning, development, surveying, siting;
- (2) Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;
- (3) Materials used in repair, construction, renovation or remodeling; or
- (4) Maintenance;

of part or all of any property on or off the described premises.

4. Additional Exclusion

The following applies only to the property specified in this Additional Exclusion:

Loss Or Damage To Products

We will not pay for loss or damage to any merchandise, goods or other product caused by or resulting from error or omission by any person or entity (including those having possession under an arrangement where work or a portion of the work is outsourced) in any stage of the development, production or use of the product, including planning, testing, processing, packaging, installation, maintenance or repair. This exclusion applies to any effect that compromises the form, substance or quality of the product. But if such error or omission results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

5. Business Income And Extra Expense Exclusions**a. We will not pay for:**

(1) Any Extra Expense, or increase of Business Income loss, caused by or resulting from:

(a) Delay in rebuilding, repairing or replacing the property or resuming "operations", due to interference at the location of the rebuilding, repair or replacement by strikers or other persons; or

(b) Suspension, lapse or cancellation of any license, lease or contract. But if the suspension, lapse or cancellation is directly caused by the suspension of "operations", we will cover such loss that affects your Business Income during the "period of restoration" and any extension of the "period of restoration" in accordance with the terms of the Extended Business Income Additional Coverage.

(2) Any other consequential loss.

b. With respect to this exclusion, suspension means:

(1) The partial slowdown or complete cessation of your business activities; and

(2) That a part or all of the described premises is rendered untenantable, if coverage for Business Income applies.

6. Accounts Receivable Exclusion

The following additional exclusion applies to the Accounts Receivable Coverage Extension:

We will not pay for:

a. Loss or damage caused by or resulting from alteration, falsification, concealment or destruction of records of accounts receivable done to conceal the wrongful giving, taking or withholding of "money", "securities" or other property.

This exclusion applies only to the extent of the wrongful giving, taking or withholding.

b. Loss or damage caused by or resulting from bookkeeping, accounting or billing errors or omissions.

c. Any loss or damage that requires any audit of records or any inventory computation to prove its factual existence.

C. Limits Of Insurance

1. The most we will pay for loss or damage in any one occurrence is the applicable Limits Of Insurance of Section I – Property shown in the Declarations.

2. The most we will pay for loss of or damage to outdoor signs attached to buildings is \$1,000 per sign in any one occurrence.

3. The amounts of insurance applicable to the Coverage Extensions and the following Additional Coverages apply in accordance with the terms of such coverages and are in addition to the Limits of Insurance of Section I - Property:

a. Fire Department Service Charge;

b. Pollutant Clean-up And Removal;

c. Increased Cost Of Construction;

d. Business Income From Dependent Properties;

e. Electronic Data; and

f. Interruption Of Computer Operations.

4. Building Limit – Automatic Increase

a. In accordance with Paragraph C.4.b., the Limit of Insurance for Buildings will automatically increase by 8%, unless a different percentage of annual increase is shown in the Declarations.

b. The amount of increase is calculated as follows:

(1) Multiply the Building limit that applied on the most recent of the policy inception date, the policy anniversary date or any other policy change amending the Building limit by:

(a) The percentage of annual increase shown in the Declarations, expressed as a decimal (example: 7% is .07); or

(b) .08, if no percentage of annual increase is shown in the Declarations; and

(2) Multiply the number calculated in accordance with b.(1) by the number of days since the beginning of the current policy year, or the effective date of the most recent policy change amending the Building limit, divided by 365.

Example

If:

The applicable Building limit is \$100,000. The annual percentage increase is 8%. The number of days since the beginning of the policy year (or last policy change) is 146.

The amount of increase is

$$\$100,000 \times .08 \times 146 \div 365 = \$3,200.$$

5. Business Personal Property Limit – Seasonal Increase

a. Subject to Paragraph 5.b., the Limit of Insurance for Business Personal Property is automatically increased by:

(1) The Business Personal Property – Seasonal Increase percentage shown in the Declarations; or

(2) 25% if no Business Personal Property – Seasonal Increase percentage is shown in the Declarations;

to provide for seasonal variances.

b. The increase described in Paragraph 5.a. will apply only if the Limit Of Insurance shown for Business Personal Property in the Declarations is at least 100% of your average monthly values during the lesser of:

(1) The 12 months immediately preceding the date the loss or damage occurs; or

(2) The period of time you have been in business as of the date the loss or damage occurs.

D. Deductibles

1. We will not pay for loss or damage in any one occurrence until the amount of loss or damage exceeds the Deductible shown in the Declarations. We will then pay the amount of loss or damage in excess of the Deductible up to the applicable Limit of Insurance of Section I - Property.

2. Regardless of the amount of the Deductible, the most we will deduct from any loss or damage under all of the following Optional Coverages in any one occurrence is the Optional Coverage Deductible shown in the Declarations:

- a. Money and Securities;
- b. Employee Dishonesty;
- c. Outdoor Signs; and
- d. Forgery or Alteration.

But this Optional Coverage Deductible will not increase the Deductible shown in the Declarations. This Deductible will be used to satisfy the requirements of the Deductible in the Declarations.

3. No deductible applies to the following Additional Coverages:

- a. Fire Department Service Charge;
- b. Business Income;
- c. Extra Expense;
- d. Civil Authority; and
- e. Fire Extinguisher Systems Recharge Expense.

E. Property Loss Conditions

1. Abandonment

There can be no abandonment of any property to us.

2. Appraisal

If we and you disagree on the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If there is an appraisal, we will still retain our right to deny the claim.

3. Duties In The Event Of Loss Or Damage

a. You must see that the following are done in the event of loss or damage to Covered Property:

- (1) Notify the police if a law may have been broken.
- (2) Give us prompt notice of the loss or damage. Include a description of the property involved.
- (3) As soon as possible, give us a description of how, when and where the loss or damage occurred.
- (4) Take all reasonable steps to protect the Covered Property from further damage, and keep a record of your expenses necessary to protect the Covered Property, for consideration in the settlement of the claim. This will not increase the Limits of Insurance of Section I – Property. However, we will not pay for any subsequent loss or damage resulting from a cause of loss that is not a Covered Cause of Loss. Also, if feasible, set the damaged property aside and in the best possible order for examination.
- (5) At our request, give us complete inventories of the damaged and undamaged property. Include quantities, costs, values and amount of loss claimed.
- (6) As often as may be reasonably required, permit us to inspect the property proving the loss or damage and examine your books and records.

Also permit us to take samples of damaged and undamaged property for inspection, testing and analysis, and permit us to make copies from your books and records.
- (7) Send us a signed, sworn proof of loss containing the information we request to investigate the claim. You must do this within 60 days after our request. We will supply you with the necessary forms.
- (8) Cooperate with us in the investigation or settlement of the claim.
- (9) Resume all or part of your "operations" as quickly as possible.

b. We may examine any insured under oath, while not in the presence of any other insured and at such times as may be reasonably required, about any matter relating to this insurance or the claim, including an insured's books and records. In the event of an examination, an insured's answers must be signed.

4. Legal Action Against Us

No one may bring a legal action against us under this insurance unless:

- a. There has been full compliance with all of the terms of this insurance; and
- b. The action is brought within two years after the date on which the direct physical loss or damage occurred.

5. Loss Payment

In the event of loss or damage covered by this policy:

- a. At our option, we will either:
 - (1) Pay the value of lost or damaged property;
 - (2) Pay the cost of repairing or replacing the lost or damaged property;
 - (3) Take all or any part of the property at an agreed or appraised value; or
 - (4) Repair, rebuild or replace the property with other property of like kind and quality, subject to Paragraph d.(1)(e) below.
- b. We will give notice of our intentions within 30 days after we receive the sworn proof of loss.
- c. We will not pay you more than your financial interest in the Covered Property.
- d. Except as provided in Paragraphs (2) through (7) below, we will determine the value of Covered Property as follows:
 - (1) At replacement cost without deduction for depreciation, subject to the following:
 - (a) If, at the time of loss, the Limit of Insurance on the lost or damaged property is 80% or more of the full replacement cost of the property immediately before the loss, we will pay the cost to repair or replace, after application of the deductible and without deduction for depreciation, but not more than the least of the following amounts:
 - (i) The Limit of Insurance under Section I – Property that applies to the lost or damaged property;

(ii) The cost to replace, on the same premises, the lost or damaged property with other property:

- i. Of comparable material and quality; and
- ii. Used for the same purpose; or

(iii) The amount that you actually spend that is necessary to repair or replace the lost or damaged property.

If a building is rebuilt at a new premises, the cost is limited to the cost which would have been incurred had the building been built at the original premises.

(b) If, at the time of loss, the Limit of Insurance applicable to the lost or damaged property is less than 80% of the full replacement cost of the property immediately before the loss, we will pay the greater of the following amounts, but not more than the Limit of Insurance that applies to the property:

- (i) The actual cash value of the lost or damaged property; or
- (ii) A proportion of the cost to repair or replace the lost or damaged property, after application of the deductible and without deduction for depreciation. This proportion will equal the ratio of the applicable Limit of Insurance to 80% of the full replacement cost of the property.

Example

The full replacement cost of property which suffers a total loss is \$100,000. The property is insured for \$70,000. 80% of the full replacement cost of the property immediately before the loss is \$80,000 ($\$100,000 \times .80 = \$80,000$). A partial loss of \$25,000 is sustained. The amount of recovery is determined as follows:

Amount of recovery

$$\$70,000 \div \$80,000 = .875$$

$$.875 \times \$25,000 = \$21,875$$

(c) You may make a claim for loss or damage covered by this insurance on an actual cash value basis instead of on a replacement cost basis. In the event you elect to have loss or damage settled on an actual cash value basis, you may still make a claim on a replacement cost basis if you notify us of your intent to do so within 180 days after the loss or damage.

(d) We will not pay on a replacement cost basis for any loss or damage:

- (i) Until the lost or damaged property is actually repaired or replaced; and
- (ii) Unless the repair or replacement is made as soon as reasonably possible after the loss or damage.

However, if the cost to repair or replace the damaged building property is \$2,500 or less, we will settle the loss according to the provisions of Paragraphs d.(1)(a) and d.(1)(b) above whether or not the actual repair or replacement is complete.

(e) The cost to repair, rebuild or replace does not include the increased cost attributable to enforcement of or compliance with any ordinance or law regulating the construction, use or repair of any property.

(2) If the Actual Cash Value – Buildings option applies, as shown in the Declarations, Paragraph (1) above does not apply to Buildings. Instead, we will determine the value of Buildings at actual cash value.

(3) The following property at actual cash value:

- (a) Used or secondhand merchandise held in storage or for sale;
- (b) Property of others. However, if an item(s) of personal property of others is subject to a written contract which governs your liability for loss or damage to that item(s), then valuation of that item(s) will be based on the amount for which you are liable under such contract, but not to exceed the lesser of the replacement cost of the property or the applicable Limit of Insurance;

- (c) Household contents, except personal property in apartments or rooms furnished by you as landlord;
 - (d) Manuscripts; and
 - (e) Works of art, antiques or rare articles, including etchings, pictures, statuary, marble, bronzes, porcelain and bric-a-brac.
- (4) Glass at the cost of replacement with safety glazing material if required by law.
- (5) Tenants' improvements and betterments at:
- (a) Replacement cost if you make repairs promptly.
 - (b) A proportion of your original cost if you do not make repairs promptly. We will determine the proportionate value as follows:
 - (i) Multiply the original cost by the number of days from the loss or damage to the expiration of the lease; and
 - (ii) Divide the amount determined in (1) above by the number of days from the installation of improvements to the expiration of the lease.

If your lease contains a renewal option, the expiration of the renewal option period will replace the expiration of the lease in this procedure.
 - (c) Nothing if others pay for repairs or replacement.
- (6) Applicable only to the Optional Coverages:
- (a) "Money" at its face value; and
 - (b) "Securities" at their value at the close of business on the day the loss is discovered.
- (7) Applicable only to accounts receivable:
- (a) If you cannot accurately establish the amount of accounts receivable outstanding as of the time of loss or damage:
 - (i) We will determine the total of the average monthly amounts of accounts receivable for the 12 months immediately preceding the month in which the loss or damage occurs; and
 - (ii) We will adjust that total for any normal fluctuations in the amount of accounts receivable for the month in which the loss or damage occurred or for any demonstrated variance from the average for that month.
 - (b) The following will be deducted from the total amount of accounts receivable, however that amount is established:
 - (i) The amount of the accounts for which there is no loss or damage;
 - (ii) The amount of the accounts that you are able to reestablish or collect;
 - (iii) An amount to allow for probable bad debts that you are normally unable to collect; and
 - (iv) All unearned interest and service charges.
- e. Our payment for loss of or damage to personal property of others will only be for the account of the owners of the property. We may adjust losses with the owners of lost or damaged property if other than you. If we pay the owners, such payments will satisfy your claims against us for the owners' property. We will not pay the owners more than their financial interest in the Covered Property.
- f. We may elect to defend you against suits arising from claims of owners of property. We will do this at our expense.
- g. We will pay for covered loss or damage within 30 days after we receive the sworn proof of loss, provided you have complied with all of the terms of this policy, and:
- (1) We have reached agreement with you on the amount of loss; or
 - (2) An appraisal award has been made.

- h. A party wall is a wall that separates and is common to adjoining buildings that are owned by different parties. In settling covered losses involving a party wall, we will pay a proportion of the loss to the party wall based on your interest in the wall in proportion to the interest of the owner of the adjoining building. However, if you elect to repair or replace your building and the owner of the adjoining building elects not to repair or replace that building, we will pay you the full value of the loss to the party wall, subject to all applicable policy provisions including Limits of Insurance and all other provisions of this Loss Payment Condition. Our payment under the provisions of this paragraph does not alter any right of subrogation we may have against any entity, including the owner or insurer of the adjoining building, and does not alter the terms of the Transfer Of Rights Of Recovery Against Others To Us Condition in this policy.

6. Recovered Property

If either you or we recover any property after loss settlement, that party must give the other prompt notice. At your option, you may retain the property. But then you must return to us the amount we paid to you for the property. We will pay recovery expenses and the expenses to repair the recovered property, subject to the Limits of Insurance of Section I – Property.

7. Resumption Of Operations

We will reduce the amount of your:

- a. Business Income loss, other than Extra Expense, to the extent you can resume your "operations", in whole or in part, by using damaged or undamaged property (including merchandise or stock) at the described premises or elsewhere.
- b. Extra Expense loss to the extent you can return "operations" to normal and discontinue such Extra Expense.

8. Vacancy

a. Description Of Terms

- (1) As used in this Vacancy Condition, the term building and the term vacant have the meanings set forth in Paragraphs (a) and (b) below:
 - (a) When this policy is issued to a tenant, and with respect to that tenant's interest in Covered Property, building means the unit or suite rented or leased to the tenant. Such building is vacant when it does not contain enough business personal property to conduct customary operations.
 - (b) When this policy is issued to the owner or general lessee of a building, building means the entire building. Such building is vacant unless at least 31% of its total square footage is:
 - (i) Rented to a lessee or sublessee and used by the lessee or sublessee to conduct its customary operations; and/or
 - (ii) Used by the building owner to conduct customary operations.
- (2) Buildings under construction or renovation are not considered vacant.

b. Vacancy Provisions

If the building where loss or damage occurs has been vacant for more than 60 consecutive days before that loss or damage occurs:

- (1) We will not pay for any loss or damage caused by any of the following even if they are Covered Causes of Loss:
 - (a) Vandalism;
 - (b) Sprinkler leakage, unless you have protected the system against freezing;

(c) Building glass breakage;

(d) Water damage;

(e) Theft; or

(f) Attempted theft.

- (2) With respect to Covered Causes of Loss other than those listed in Paragraphs (1)(a) through (1)(f) above, we will reduce the amount we would otherwise pay for the loss or damage by 15%.

F. Property General Conditions

1. Control Of Property

Any act or neglect of any person other than you beyond your direction or control will not affect this insurance.

The breach of any condition of this Coverage Form at any one or more locations will not affect coverage at any location where, at the time of loss or damage, the breach of condition does not exist.

2. Mortgageholders

- a. The term "mortgageholder" includes trustee.
- b. We will pay for covered loss of or damage to buildings or structures to each mortgageholder shown in the Declarations in their order of precedence, as interests may appear.
- c. The mortgageholder has the right to receive loss payment even if the mortgageholder has started foreclosure or similar action on the building or structure.
- d. If we deny your claim because of your acts or because you have failed to comply with the terms of this policy, the mortgageholder will still have the right to receive loss payment if the mortgageholder:
 - (1) Pays any premium due under this policy at our request if you have failed to do so;
 - (2) Submits a signed, sworn proof of loss within 60 days after receiving notice from us of your failure to do so; and
 - (3) Has notified us of any change in ownership, occupancy or substantial change in risk known to the mortgageholder.

All of the terms of this policy will then apply directly to the mortgageholder.

- e. If we pay the mortgageholder for any loss or damage and deny payment to you because of your acts or because you have failed to comply with the terms of this policy:

- (1) The mortgageholder's rights under the mortgage will be transferred to us to the extent of the amount we pay; and
- (2) The mortgageholder's right to recover the full amount of the mortgageholder's claim will not be impaired.

At our option, we may pay to the mortgageholder the whole principal on the mortgage plus any accrued interest. In this event, your mortgage and note will be transferred to us and you will pay your remaining mortgage debt to us.

- f. If we cancel this policy, we will give written notice to the mortgageholder at least:
 - (1) 10 days before the effective date of cancellation if we cancel for your nonpayment of premium; or
 - (2) 30 days before the effective date of cancellation if we cancel for any other reason.
- g. If we elect not to renew this policy, we will give written notice to the mortgageholder at least 10 days before the expiration date of this policy.

3. No Benefit To Bailee

No person or organization, other than you, having custody of Covered Property will benefit from this insurance.

4. Policy Period, Coverage Territory

Under Section I – Property:

- a. We cover loss or damage commencing:
 - (1) During the policy period shown in the Declarations; and
 - (2) Within the coverage territory or, with respect to property in transit, while it is between points in the coverage territory.
- b. The coverage territory is:
 - (1) The United States of America (including its territories and possessions);
 - (2) Puerto Rico; and
 - (3) Canada.

G. Optional Coverages

If shown as applicable in the Declarations, the following Optional Coverages also apply. These coverages are subject to the terms and conditions applicable to property coverage in this policy, except as provided below:

1. Outdoor Signs

- a. We will pay for direct physical loss of or damage to all outdoor signs at the described premises:
 - (1) Owned by you; or
 - (2) Owned by others but in your care, custody or control.
- b. Paragraph A.3., Covered Causes Of Loss and Paragraph B., Exclusions in Section I – Property do not apply to this Optional Coverage, except for:
 - (1) Paragraph B.1.c., Governmental Action;
 - (2) Paragraph B.1.d., Nuclear Hazard; and
 - (3) Paragraph B.1.f., War And Military Action.
- c. We will not pay for loss or damage caused by or resulting from:
 - (1) Wear and tear;
 - (2) Hidden or latent defect;
 - (3) Rust;
 - (4) Corrosion; or
 - (5) Mechanical breakdown.
- d. The most we will pay for loss or damage in any one occurrence is the Limit Of Insurance for Outdoor Signs shown in the Declarations.
- e. The provisions of this Optional Coverage supersede all other references to outdoor signs in this policy.

2. Money And Securities

- a. We will pay for loss of "money" and "securities" used in your business while at a bank or savings institution, within your living quarters or the living quarters of your partners or any employee (including a temporary or leased employee) having use and custody of the property, at the described premises, or in transit between any of these places, resulting directly from:
 - (1) Theft, meaning any act of stealing;
 - (2) Disappearance; or
 - (3) Destruction.

- b. In addition to the Limitations and Exclusions applicable to Section I – Property, we will not pay for loss:

- (1) Resulting from accounting or arithmetical errors or omissions;
- (2) Due to the giving or surrendering of property in any exchange or purchase; or
- (3) Of property contained in any "money"-operated device unless the amount of "money" deposited in it is recorded by a continuous recording instrument in the device.

- c. The most we will pay for loss in any one occurrence is:

- (1) The limit shown in the Declarations for Inside the Premises for "money" and "securities" while:
 - (a) In or on the described premises; or
 - (b) Within a bank or savings institution; and
- (2) The limit shown in the Declarations for Outside the Premises for "money" and "securities" while anywhere else.

- d. All loss:

- (1) Caused by one or more persons; or
 - (2) Involving a single act or series of related acts;
- is considered one occurrence.

- e. You must keep records of all "money" and "securities" so we can verify the amount of any loss or damage.

3. Employee Dishonesty

- a. We will pay for direct loss of or damage to Business Personal Property and "money" and "securities" resulting from dishonest acts committed by any of your employees acting alone or in collusion with other persons (except you or your partner) with the manifest intent to:
 - (1) Cause you to sustain loss or damage; and also
 - (2) Obtain financial benefit (other than salaries, commissions, fees, bonuses, promotions, awards, profit sharing, pensions or other employee benefits earned in the normal course of employment) for:
 - (a) Any employee; or
 - (b) Any other person or organization.

b. We will not pay for loss or damage:

- (1) Resulting from any dishonest or criminal act that you or any of your partners or "members" commit whether acting alone or in collusion with other persons.
- (2) Resulting from any dishonest act committed by any of your employees (except as provided in Paragraph a.), "managers" or directors:
 - (a) Whether acting alone or in collusion with other persons; or
 - (b) While performing services for you or otherwise.
- (3) The only proof of which as to its existence or amount is:
 - (a) An inventory computation; or
 - (a) A profit and loss computation.
- (4) Caused by an employee if the employee had also committed theft or any other dishonest act prior to the effective date of this policy and you or any of your partners, "members", "managers", officers, directors or trustees, not in collusion with the employee, learned of that theft or dishonest act prior to the policy period shown in the Declarations.

c. The most we will pay for loss or damage in any one occurrence is the Limit Of Insurance for Employee Dishonesty shown in the Declarations.**d. All loss or damage:**

- (1) Caused by one or more persons; or
- (2) Involving a single act or series of acts; is considered one occurrence.

e. If any loss is covered:

- (1) Partly by this insurance; and
- (2) Partly by any prior cancelled or terminated insurance that we or any affiliate had issued to you or any predecessor in interest;

the most we will pay is the larger of the amount recoverable under this insurance or the prior insurance.

We will pay only for loss or damage you sustain through acts committed or events occurring during the policy period. Regardless of the number of years this policy remains in force or the number of premiums paid, no Limit of Insurance cumulates from year to year or period to period.

f. This Optional Coverage is cancelled as to any employee immediately upon discovery by:

- (1) You; or
- (2) Any of your partners, "members", "managers", officers or directors not in collusion with the employee;

of any dishonest act committed by that employee before or after being hired by you.

g. We will pay only for covered loss or damage sustained during the policy period and discovered no later than one year from the end of the policy period.**h. If you (or any predecessor in interest) sustained loss or damage during the policy period of any prior insurance that you could have recovered under that insurance except that the time within which to discover loss or damage had expired, we will pay for it under this Optional Coverage, provided:**

- (1) This Optional Coverage became effective at the time of cancellation or termination of the prior insurance; and
- (2) The loss or damage would have been covered by this Optional Coverage had it been in effect when the acts or events causing the loss or damage were committed or occurred.

i. The insurance under Paragraph h. above is part of, not in addition to, the Limit of Insurance applying to this Optional Coverage and is limited to the lesser of the amount recoverable under:

- (1) This Optional Coverage as of its effective date; or
- (2) The prior insurance had it remained in effect.

j. With respect to the Employee Dishonesty Optional Coverage in Paragraph G.3., employee means:

- (1) Any natural person:
 - (a) While in your service or for 30 days after termination of service;
 - (b) Who you compensate directly by salary, wages or commissions; and
 - (c) Who you have the right to direct and control while performing services for you;

(2) Any natural person who is furnished temporarily to you:

(a) To substitute for a permanent employee, as defined in Paragraph (1) above, who is on leave; or

(b) To meet seasonal or short-term workload conditions;

(3) Any natural person who is leased to you under a written agreement between you and a labor leasing firm, to perform duties related to the conduct of your business, but does not mean a temporary employee as defined in Paragraph (2) above;

(4) Any natural person who is a former employee, director, partner, member, manager, representative or trustee retained as a consultant while performing services for you; or

(5) Any natural person who is a guest student or intern pursuing studies or duties, excluding, however, any such person while having care and custody of property outside any building you occupy in conducting your business.

But employee does not mean:

(1) Any agent, broker, factor, commission merchant, consignee, independent contractor or representative of the same general character; or

(2) Any "manager", director or trustee except while performing acts coming within the usual duties of an employee.

4. Equipment Breakdown Protection Coverage

a. We will pay for direct loss of or damage to Covered Property caused by or resulting from a mechanical breakdown or electrical failure to pressure, mechanical or electrical machinery and equipment.

Mechanical breakdown or electrical failure to pressure, mechanical or electrical machinery and equipment does not mean any:

(1) Malfunction including but not limited to adjustment, alignment, calibration, cleaning or modification;

(2) Leakage at any valve, fitting, shaft seal, gland packing, joint or connection;

(3) Damage to any vacuum tube, gas tube, or brush; or

(4) The functioning of any safety or protective device.

b. Paragraphs A.4.a.(1) and A.4.a.(2), Limitations, do not apply to this Optional Coverage.

c. With respect to the coverage provided by this Optional Coverage, the following exclusions in Paragraph B. Exclusions do not apply:

(1) Paragraph B.2.a., Electrical Apparatus;

(2) Paragraph B.2.d., Steam Apparatus; and

(3) Paragraph B.2.i.(6), Mechanical Breakdown.

d. With respect to the coverage provided by this Optional Coverage, Paragraph G.1.c.(5) of the Outdoor Signs Optional Coverage does not apply.

e. If a dollar deductible is shown in the Declarations for this Optional Coverage, we will first subtract the applicable deductible amount from any loss we would otherwise pay. We will then pay the amount of loss in excess of the applicable deductible up to the applicable limit for this coverage.

If no optional deductible is chosen for this Optional Coverage, the Property Deductible shown in the Declarations applies.

f. With respect to Additional Coverages 5.f. Business Income and 5.g. Extra Expense, if the 72-hour time period in the definition of "period of restoration" (hereinafter referred to as time deductible) is amended for this Optional Coverage as shown in the Declarations, we will not pay for any Business Income loss that occurs during the consecutive number of hours shown as the time deductible in the Declarations immediately following a mechanical breakdown or electrical failure. If a time deductible is shown in days, each day shall mean 24 consecutive hours.

With respect to the coverage provided by this Optional Coverage, any time deductible shown in the Declarations for Equipment Breakdown Protection Coverage supersedes any time deductible otherwise applicable to the Business Income coverage provided by this policy.

g. With respect to the coverage provided by this Optional Coverage, Paragraph H. Property Definitions is amended as follows:

1. "Computer" means:

a. Programmable electronic equipment that is used to store, retrieve and process data; and

- b. Associated peripheral equipment that provides communication, including input and output functions such as printing and auxiliary functions such as data transmission.

"Computer" includes those used to operate production-type machinery or equipment.

- h. Whenever any covered pressure, mechanical or electrical machinery and equipment is found to be in, or exposed to, a dangerous condition, any of our representatives may suspend coverage provided by this Optional Coverage for loss from a mechanical breakdown or electrical failure to that pressure, mechanical or electrical machinery and equipment.

However, coverage provided by this Optional Coverage may be reinstated for loss from a mechanical breakdown or electrical failure to that pressure, mechanical or electrical machinery and equipment if the reasons for the suspension are found by any of our representatives to no longer exist.

We may suspend or reinstate this Optional coverage by mailing or delivering a written notification regarding the suspension or reinstatement to:

- (1) Your last known address; or
- (2) The address where the pressure, mechanical or electrical machinery and equipment is located.

This notification will indicate the effective date of the suspension or reinstatement.

If the coverage provided by this Optional Coverage is not reinstated, you will get a pro rata refund of premium. But the suspension will be effective even if we have not yet made or offered a refund.

H. Property Definitions

1. "Computer" means:

- a. Programmable electronic equipment that is used to store, retrieve and process data; and
- b. Associated peripheral equipment that provides communication, including input and output functions such as printing and auxiliary functions such as data transmission.

"Computer" does not include those used to operate production-type machinery or equipment.

- 2. "Counterfeit money" means an imitation of "money" that is intended to deceive and to be taken as genuine.
- 3. "Electronic data" means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a "computer" or device connected to it, which enable the "computer" or device to receive, process, store, retrieve or send data.
- 4. "Fungi" means any type or form of fungus, including mold or mildew, and any mycotoxins, spores, scents or by-products produced or released by fungi.
- 5. "Manager" means a person serving in a directorial capacity for a limited liability company.
- 6. "Member" means an owner of a limited liability company represented by its membership interest, who also may serve as a "manager".
- 7. "Money" means:
 - a. Currency, coins and bank notes in current use and having a face value; and
 - b. Traveler's checks, register checks and money orders held for sale to the public.
- 8. "Operations" means your business activities occurring at the described premises.
- 9. "Period of restoration":
 - a. Means the period of time that:
 - (1) Begins:
 - (a) 72 hours after the time of direct physical loss or damage for Business Income Coverage; or
 - (b) Immediately after the time of direct physical loss or damage for Extra Expense Coverage;
 - caused by or resulting from any Covered Cause of Loss at the described premises; and

(2) Ends on the earlier of:

(a) The date when the property at the described premises should be repaired, rebuilt or replaced with reasonable speed and similar quality; or

(b) The date when business is resumed at a new permanent location.

b. Does not include any increased period required due to the enforcement of or compliance with any ordinance or law that:

(1) Regulates the construction, use or repair, or requires the tearing down of any property; or

(2) Requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

The expiration date of this policy will not cut short the "period of restoration".

10. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

11. "Securities" means negotiable and nonnegotiable instruments or contracts representing either "money" or other property and includes:

a. Tokens, tickets, revenue and other stamps (whether represented by actual stamps or unused value in a meter) in current use; and

b. Evidences of debt issued in connection with credit or charge cards, which cards are not issued by you;

but does not include "money".

12. "Specified causes of loss" means the following:

Fire; lightning; explosion; windstorm or hail; smoke; aircraft or vehicles; riot or civil commotion; vandalism; leakage from fire extinguishing equipment; sinkhole collapse; volcanic action; falling objects; weight of snow, ice or sleet; water damage.

a. Sinkhole collapse means the sudden sinking or collapse of land into underground empty spaces created by the action of water on limestone or dolomite. This cause of loss does not include:

(1) The cost of filling sinkholes; or

(2) Sinking or collapse of land into man-made underground cavities.

b. Falling objects does not include loss of or damage to:

(1) Personal property in the open; or

(2) The interior of a building or structure, or property inside a building or structure, unless the roof or an outside wall of the building or structure is first damaged by a falling object.

c. Water damage means:

(1) Accidental discharge or leakage of water or steam as the direct result of the breaking apart or cracking of any part of a system or appliance (other than a sump system including its related equipment and parts) containing water or steam; and

(2) Accidental discharge or leakage of water or waterborne material as the direct result of the breaking apart or cracking of a water or sewer pipe that is located off the described premises and is part of a municipal potable water supply system or municipal sanitary sewer system, if the breakage or cracking is caused by wear and tear.

But water damage does not include loss or damage otherwise excluded under the terms of the Water Exclusion. Therefore, for example, there is no coverage in the situation in which discharge or leakage of water results from the breaking apart or cracking of a pipe which was caused by or related to weather-induced flooding, even if wear and tear contributed to the breakage or cracking. As another example, and also in accordance with the terms of the Water Exclusion, there is no coverage for loss or damage caused by or related to weather-induced flooding which follows or is exacerbated by pipe breakage or cracking attributable to wear and tear.

To the extent that accidental discharge or leakage of water falls within the criteria set forth in c.(1) or c.(2) of this definition of "specified causes of loss", such water is not subject to the provisions of the Water Exclusion which preclude coverage for surface water or water under the ground surface.

13. "Stock" means merchandise held in storage or for sale, raw materials and in-process or finished goods, including supplies used in their packing or shipping.

14. "Valuable papers and records" means inscribed, printed or written:

- a. Documents;
- b. Manuscripts; and
- c. Records;

including abstracts, books, deeds, drawings, films, maps or mortgages.

But "valuable papers and records" does not mean "money" or "securities".

SECTION II – LIABILITY

A. Coverages

1. Business Liability

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury", "property damage" or "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" or any offense and settle any claim or "suit" that may result. But:

(1) The amount we will pay for damages is limited as described in Paragraph D. Liability And Medical Expenses Limits Of Insurance in Section II – Liability; and

(2) Our right and duty to defend end when we have used up the applicable Limit of Insurance in the payment of judgments or settlements or medical expenses.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Paragraph f. Coverage Extension – Supplementary Payments.

- b. This insurance applies:

(1) To "bodily injury" and "property damage" only if:

(a) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

(b) The "bodily injury" or "property damage" occurs during the policy period; and

(c) Prior to the policy period, no insured listed under Paragraph C.1. Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known before the policy period.

(2) To "personal and advertising injury" caused by an offense arising out of your business, but only if the offense was committed in the "coverage territory" during the policy period.

- c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph C.1. Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of "bodily injury" or "property damage" after the end of the policy period.

- d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph C.1. Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

(1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;

(2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or

(3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

- e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

f. Coverage Extension – Supplementary Payments

(1) We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

- (a) All expenses we incur.
- (b) Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which Business Liability Coverage for "bodily injury" applies. We do not have to furnish these bonds.
- (c) The cost of bonds to release attachments, but only for bond amounts within our Limit of Insurance. We do not have to furnish these bonds.
- (d) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
- (e) All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
- (f) Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the Limit of Insurance, we will not pay any prejudgment interest based on that period of time after the offer.
- (g) All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within our Limit of Insurance.

These payments will not reduce the limit of liability.

(2) If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

- (a) The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
- (b) This insurance applies to such liability assumed by the insured;
- (c) The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
- (d) The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
- (e) The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- (f) The indemnitee:
 - (i) Agrees in writing to:
 - i. Cooperate with us in the investigation, settlement or defense of the "suit";
 - ii. Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
 - iii. Notify any other insurer whose coverage is available to the indemnitee; and

iv. Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and

(ii) Provides us with written authorization to:

i. Obtain records and other information related to the "suit"; and

ii. Conduct and control the defense of the indemnitee in such "suit".

(3) So long as the conditions in Paragraph (2) are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph B.1.b.(2) Exclusions in Section II – Liability, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the Limits of Insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

(a) We have used up the applicable Limit of Insurance in the payment of judgments or settlements; or

(b) The conditions set forth above, or the terms of the agreement described in Paragraph (2)(f) above, are no longer met.

2. Medical Expenses

a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

(1) On premises you own or rent;

(2) On ways next to premises you own or rent; or

(3) Because of your operations;

provided that:

(a) The accident takes place in the "coverage territory" and during the policy period;

(b) The expenses are incurred and reported to us within one year of the date of the accident; and

(c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

b. We will make these payments regardless of fault. These payments will not exceed the Limits of Insurance of Section II – Liability. We will pay reasonable expenses for:

(1) First aid administered at the time of an accident;

(2) Necessary medical, surgical, X-ray and dental services, including prosthetic devices; and

(3) Necessary ambulance, hospital, professional nursing and funeral services.

B. Exclusions

1. Applicable To Business Liability Coverage

This insurance does not apply to:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

(1) That the insured would have in the absence of the contract or agreement; or

(2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:

(a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and

- (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies even if the claims allege negligence or other wrongdoing in:

- (a) The supervision, hiring, employment, training or monitoring of others by an insured; or
- (b) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

if the "occurrence" which caused the "bodily injury" or "property damage", involved that which is described in Paragraph (1), (2) or (3) above.

However, this exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
 - (a) Employment by the insured; or

- (b) Performing duties related to the conduct of the insured's business; or

- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

f. Pollution

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

- (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:

- (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;
- (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or
- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";

- (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
- (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:
 - (i) Any insured; or
 - (ii) Any person or organization for whom you may be legally responsible;
- (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:
 - (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

(ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire"; or

(e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

(2) Any loss, cost or expense arising out of any:

(a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

(b) Claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement or such claim or "suit" by or on behalf of a governmental authority.

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
 - (a) Less than 51 feet long; and
 - (b) Not being used to carry persons or property for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or
- (5) "Bodily injury" or "property damage" arising out of:
 - (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance or motor vehicle registration law where it is licensed or principally garaged; or
 - (b) The operation of any of the following machinery or equipment:
 - (i) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
 - (ii) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition or stunting activity.

i. War

"Bodily injury", "property damage" or "personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by government authority in hindering or defending against any of these.

j. Professional Services

"Bodily injury", "property damage" or "personal and advertising injury" caused by the rendering or failure to render any professional service. This includes but is not limited to:

- (1) Legal, accounting or advertising services;
- (2) Preparing, approving, or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications;
- (3) Supervisory, inspection or engineering services;
- (4) Medical, surgical, dental, X-ray or nursing services treatment, advice or instruction;
- (5) Any health or therapeutic service treatment, advice or instruction;
- (6) Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement or personal grooming;

(7) Optometry or optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;

(8) Body piercing services; and

(9) Services in the practice of pharmacy.

This exclusion applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering or failure to render of any professional service.

k. Damage To Property

"Property damage" to:

- (1) Property you own, rent or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractor or subcontractor working directly or indirectly on your behalf is performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of seven or fewer consecutive days. A separate Limit of Insurance applies to Damage To Premises Rented To You as described in Paragraph D. Liability And Medical Expenses Limits Of Insurance in Section II – Liability.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

l. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

m. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

n. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

o. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

p. Personal And Advertising Injury

"Personal and advertising injury":

- (1) Caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury";
- (2) Arising out of oral or written publication, in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity;
- (3) Arising out of oral or written publication, in any manner, of material whose first publication took place before the beginning of the policy period;
- (4) For which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement;
- (5) Arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement";
- (6) Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement";
- (7) Arising out of the wrong description of the price of goods, products or services stated in your "advertisement";
- (8) Committed by an insured whose business is:
 - (a) Advertising, broadcasting, publishing or telecasting;
 - (b) Designing or determining content of web sites for others; or
 - (c) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs 14.a., b. and c. of "personal and advertising injury" under Paragraph F. Liability And Medical Expenses Definitions.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, by itself, is not considered the business of advertising, broadcasting, publishing or telecasting;

- (9) Arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time;
 - (10) With respect to any loss, cost or expense arising out of any:
 - (a) Request, demand or order that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
 - (b) Claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants";
 - (11) Arising out of an electronic chatroom or bulletin board the insured hosts, owns or over which the insured exercises control;
 - (12) Arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights. Under this exclusion, such other intellectual property rights do not include the use of another's advertising idea in your "advertisement".
- However, this exclusion does not apply to infringement, in your "advertisement", of copyright, trade dress or slogan;
- (13) Arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatags, or any other similar tactics to mislead another's potential customers.

q. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

However, this exclusion does not apply to liability for damages because of "bodily injury".

As used in this exclusion, electronic data means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive, process, store, retrieve or send data.

r. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

s. Recording And Distribution Of Material Or Information In Violation Of Law

"Bodily injury", "property damage" or "personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transaction Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

Exclusions c., d., e., f., g., h., i., k., l., m., n. and o. in Section II – Liability do not apply to damage by fire to premises while rented to you, or temporarily occupied by you with permission of the owner. A separate Damage To Premises Rented To You Limit of Insurance applies to this coverage as described in Paragraph D. Liability And Medical Expenses Limits of Insurance in Section II – Liability.

2. Applicable To Medical Expenses Coverage

We will not pay expenses for "bodily injury":

- a. To any insured, except "volunteer workers".
- b. To a person hired to do work for or on behalf of any insured or a tenant of any insured.
- c. To a person injured on that part of premises you own or rent that the person normally occupies.
- c. To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.
- e. To a person injured while practicing, instructing or participating in any physical exercises or games, sports or athletic contests.
- f. Included within the "products-completed operations hazard".
- g. Excluded under Business Liability Coverage.

3. Applicable To Both Business Liability Coverage And Medical Expenses Coverage - Nuclear Energy Liability Exclusion

This insurance does not apply:

- a. Under Business Liability Coverage, to "bodily injury" or "property damage":
 - (1) With respect to which an insured under the policy is also an insured under a nuclear energy liability policy issued by the Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or

- (2) Resulting from the "hazardous properties" of "nuclear material" and with respect to which:
- (a) Any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof; or
 - (b) The insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
- b. Under Medical Expenses Coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear material" and arising out of the operation of a "nuclear facility" by any person or organization.
- c. Under Business Liability Coverage, to "bodily injury" or "property damage" resulting from the "hazardous properties" of the "nuclear material"; if:
- (1) The "nuclear material":
 - (a) Is at any "nuclear facility" owned by, or operated by or on behalf of, an insured; or
 - (b) Has been discharged or dispersed therefrom;
 - (2) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an insured; or
 - (3) The "bodily injury" or "property damage" arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility"; but if such facility is located within the United States of America, its territories or possessions or Canada, this Exclusion (3) applies only to "property damage" to such "nuclear facility" and any property thereat.
- d. As used in this exclusion:
- (1) "By-product material" has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof;
 - (2) "Hazardous properties" include radioactive, toxic or explosive properties;
 - (3) "Nuclear facility" means:
 - (a) Any "nuclear reactor";
 - (b) Any equipment or device designed or used for:
 - (i) Separating the isotopes of uranium or plutonium;
 - (ii) Processing or utilizing "spent fuel"; or
 - (iii) Handling, processing or packaging "waste";
 - (c) Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
 - (d) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of "waste";

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;
 - (4) "Nuclear material" means "source material", "special nuclear material" or "by-product material";
 - (5) "Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;
 - (6) "Property damage" includes all forms of radioactive contamination of property;
 - (7) "Source material" has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof;
 - (8) "Special nuclear material" has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof;
 - (9) "Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor";

(10) "Waste" means any waste material:

- (a) Containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content; and**
- (b) Resulting from the operation by any person or organization of any "nuclear facility" included under Paragraphs (a) and (b) of the definition of "nuclear facility".**

C. Who Is An Insured

1. If you are designated in the Declarations as:

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.**
- b. A partnership or joint venture, you are an insured. Your members, your partners and their spouses are also insureds, but only with respect to the conduct of your business.**
- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.**
- d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.**
- e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.**

2. Each of the following is also an insured:

- a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:**

(1) "Bodily injury" or "personal and advertising injury":

- (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), or to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;**
- (b) To the spouse, child, parent, brother or sister of that co-"employee" as a consequence of Paragraph (a) above;**
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (a) or (b); or**
- (d) Arising out of his or her providing or failing to provide professional health care services.**

(2) "Property damage" to property:

- (a) Owned, occupied or used by;**

(b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

- b. Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.
- c. Any person or organization having proper temporary custody of your property if you die, but only:
 - (1) With respect to liability arising out of the maintenance or use of that property; and
 - (2) Until your legal representative has been appointed.
- d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this policy.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

D. Liability And Medical Expenses Limits Of Insurance

- 1. The Limits of Insurance of Section II – Liability shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
 - a. Insureds;
 - b. Claims made or "suits" brought; or
 - c. Persons or organizations making claims or bringing "suits".
- 2. The most we will pay for the sum of all damages because of all:
 - a. "Bodily injury", "property damage" and medical expenses arising out of any one "occurrence"; and
 - b. "Personal and advertising injury" sustained by any one person or organization;

is the Liability and Medical Expenses limit shown in the Declarations. But the most we will pay for all medical expenses because of "bodily injury" sustained by any one person is the Medical Expenses limit shown in the Declarations.

- 3. The most we will pay under Business Liability Coverage for damages because of "property damage" to a premises while rented to you or in the case of fire while rented to you or temporarily occupied by you with permission of the owner is the applicable Damage To Premises Rented To You limit shown for that premises in the Declarations. For a premises temporarily occupied by you, the applicable limit will be the highest Damage To Premises Rented To You limit shown in the Declarations.

4. Aggregate Limits

The most we will pay for:

- a. All "bodily injury" and "property damage" that is included in the "products-completed operations hazard" is twice the Liability and Medical Expenses limit.
- b. All:
 - (1) "Bodily injury" and "property damage" except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard";
 - (2) Plus medical expenses;
 - (3) Plus all "personal and advertising injury" caused by offenses committed;

is twice the Liability and Medical Expenses limit.

Subject to Paragraph a. or b. above, whichever applies, the Damage To Premises Rented To You limit is the most we will pay for damages because of "property damage" to any one premises, while rented to you, or in the case of fire, while rented to you or temporarily occupied by you with permission of the owner.

The Limits of Insurance of Section II – Liability apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

E. Liability And Medical Expenses General Conditions

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this policy.

2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

b. If a claim is made or "suit" is brought against any insured, you must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and

- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.

c. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization that may be liable to the insured because of injury or damage to which this insurance may also apply.

d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

3. Legal Action Against Us

No person or organization has a right under this policy:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this policy unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this policy or that are in excess of the applicable Limit of Insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

4. Separation Of Insureds

Except with respect to the Limits of Insurance of Section II – Liability, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

F. Liability And Medical Expenses Definitions

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:

- a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
- b. Regarding web sites, only that part of a web site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.

2. "Auto" means:

- a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
- b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance or motor vehicle registration law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.

4. "Coverage territory" means:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;

b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in Paragraph a. above; or

c. All other parts of the world if the injury or damage arises out of:

(1) Goods or products made or sold by you in the territory described in Paragraph a. above;

(2) The activities of a person whose home is in the territory described in Paragraph a. above, but is away for a short time on your business; or

(3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication;

provided the insured's responsibility to pay damages is determined in a "suit" on the merits in the territory described in Paragraph a. above or in a settlement we agree to.

5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".

6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, bylaws or any other similar governing document.

7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.

8. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:

a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or

b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by:

(1) The repair, replacement, adjustment or removal of "your product" or "your work"; or

(2) Your fulfilling the terms of the contract or agreement.

9. "Insured contract" means:

a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";

b. A sidetrack agreement;

c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;

d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;

e. An elevator maintenance agreement;

f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

(1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;

(2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:

(a) Preparing, approving or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications; or

(b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or

(3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in Paragraph (2) above and supervisory, inspection or engineering services.

10. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

11. "Loading or unloading" means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
- b. While it is in or on an aircraft, watercraft or "auto"; or
- c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

12. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b. Vehicles maintained for use solely on or next to premises you own or rent;
- c. Vehicles that travel on crawler treads;
- d. Vehicles, whether self-propelled or not, on which are permanently mounted:

(1) Power cranes, shovels, loaders, diggers or drills; or

(2) Road construction or resurfacing equipment such as graders, scrapers or rollers;

- e. Vehicles not described in Paragraph a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:

(1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or

(2) Cherry pickers and similar devices used to raise or lower workers;

- f. Vehicles not described in Paragraph a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

(1) Equipment designed primarily for:

- (a) Snow removal;
- (b) Road maintenance, but not construction or resurfacing; or
- (c) Street cleaning;

(2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

(3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance or motor vehicle registration law where they are licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law or motor vehicle registration law are considered "autos".

13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

14. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

- a. False arrest, detention or imprisonment;
- b. Malicious prosecution;
- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
- d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e. Oral or written publication, in any manner, of material that violates a person's right of privacy;

- f. The use of another's advertising idea in your "advertisement"; or
- g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".

15. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

16. "Products-completed operations hazard":

- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
 - (1) Products that are still in your physical possession; or
 - (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
 - (a) When all of the work called for in your contract has been completed.
 - (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
 - (c) When that part of the work done at the job site has been put to its intended use by any other person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

The "bodily injury" or "property damage" must occur away from premises you own or rent, unless your business includes the selling, handling or distribution of "your product" for consumption on premises you own or rent.

- b. Does not include "bodily injury" or "property damage" arising out of:
 - (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured; or
 - (2) The existence of tools, uninstalled equipment or abandoned or unused materials.

17. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, electronic data is not tangible property.

As used in this definition, electronic data means information, facts or programs stored as, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

18. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage", or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

19. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

20. "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

21. "Your product":

- a. Means:
 - (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (a) You;
 - (b) Others trading under your name; or

- (c) A person or organization whose business or assets you have acquired; and
 - (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
 - b. Includes:
 - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
 - (2) The providing of or failure to provide warnings or instructions.
 - c. Does not include vending machines or other property rented to or located for the use of others but not sold.
22. "Your work":
- a. Means:
 - (1) Work or operations performed by you or on your behalf; and
 - (2) Materials, parts or equipment furnished in connection with such work or operations.
 - b. Includes:
 - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
 - (2) The providing of or failure to provide warnings or instructions.

SECTION III – COMMON POLICY CONDITIONS (APPLICABLE TO SECTION I – PROPERTY AND SECTION II – LIABILITY)

A. Cancellation

- 1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
- 2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
 - a. Five days before the effective date of cancellation if any one of the following conditions exists at any building that is Covered Property in this policy:
 - (1) The building has been vacant or unoccupied 60 or more consecutive days. This does not apply to:
 - (a) Seasonal unoccupancy; or
 - (b) Buildings in the course of construction, renovation or addition.

Buildings with 65% or more of the rental units or floor area vacant or unoccupied are considered unoccupied under this provision.

- (2) After damage by a Covered Cause of Loss, permanent repairs to the building:
 - (a) Have not started; and
 - (b) Have not been contracted for; within 30 days of initial payment of loss.
- (3) The building has:
 - (a) An outstanding order to vacate;
 - (b) An outstanding demolition order; or
 - (c) Been declared unsafe by governmental authority.
- (4) Fixed and salvageable items have been or are being removed from the building and are not being replaced. This does not apply to such removal that is necessary or incidental to any renovation or remodeling.
- (5) Failure to:
 - (a) Furnish necessary heat, water, sewer service or electricity for 30 consecutive days or more, except during a period of seasonal unoccupancy; or
 - (b) Pay property taxes that are owing and have been outstanding for more than one year following the date due, except that this provision will not apply where you are in a bona fide dispute with the taxing authority regarding payment of such taxes.

b. 10 days before the effective date of cancellation if we cancel for nonpayment of premium.

c. 30 days before the effective date of cancellation if we cancel for any other reason.

- 3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
- 4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
- 5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.

6. If notice is mailed, proof of mailing will be sufficient proof of notice.

B. Changes

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

C. Concealment, Misrepresentation Or Fraud

This policy is void in any case of fraud by you as it relates to this policy at any time. It is also void if you or any other insured, at any time, intentionally conceals or misrepresents a material fact concerning:

1. This policy;
2. The Covered Property;
3. Your interest in the Covered Property; or
4. A claim under this policy.

D. Examination Of Your Books And Records

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

E. Inspections And Surveys

1. We have the right to:
 - a. Make inspections and surveys at any time;
 - b. Give you reports on the conditions we find; and
 - c. Recommend changes.
2. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:
 - a. Are safe and healthful; or
 - b. Comply with laws, regulations, codes or standards.
3. Paragraphs 1. and 2. of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

4. Paragraph 2. of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

F. Insurance Under Two Or More Coverages

If two or more of this policy's coverages apply to the same loss or damage, we will not pay more than the actual amount of the loss or damage.

G. Liberalization

If we adopt any revision that would broaden the coverage under this policy without additional premium within 45 days prior to or during the policy period, the broadened coverage will immediately apply to this policy.

H. Other Insurance

1. If there is other insurance covering the same loss or damage, we will pay only for the amount of covered loss or damage in excess of the amount due from that other insurance, whether you can collect on it or not. But we will not pay more than the applicable Limit of Insurance of Section I – Property.
2. Business Liability Coverage is excess over:
 - a. Any other insurance that insures for direct physical loss or damage; or
 - b. Any other primary insurance available to you covering liability for damages arising out of the premises or operations for which you have been added as an additional insured.
3. When this insurance is excess, we will have no duty under Business Liability Coverage to defend any claim or "suit" that any other insurer has a duty to defend. If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

I. Premiums

1. The first Named Insured shown in the Declarations:
 - a. Is responsible for the payment of all premiums; and
 - b. Will be the payee for any return premiums we pay.
2. The premium shown in the Declarations was computed based on rates in effect at the time the policy was issued. On each renewal, continuation or anniversary of the effective date of this policy, we will compute the premium in accordance with our rates and rules then in effect.

3. With our consent, you may continue this policy in force by paying a continuation premium for each successive one-year period. The premium must be:

- a. Paid to us prior to the anniversary date; and
- b. Determined in accordance with Paragraph 2. above.

Our forms then in effect will apply. If you do not pay the continuation premium, this policy will expire on the first anniversary date that we have not received the premium.

4. Undeclared exposures or change in your business operation, acquisition or use of locations may occur during the policy period that are not shown in the Declarations. If so, we may require an additional premium. That premium will be determined in accordance with our rates and rules then in effect.

J. Premium Audit

1. This policy is subject to audit if a premium designated as an advance premium is shown in the Declarations. We will compute the final premium due when we determine your actual exposures.
2. Premium shown in this policy as advance premium is a deposit premium only. At the close of each audit period, we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
3. The first Named Insured must keep records of the information we need for premium computation and send us copies at such times as we may request.

K. Transfer Of Rights Of Recovery Against Others To Us

1. Applicable to Businessowners Property Coverage:

If any person or organization to or for whom we make payment under this policy has rights to recover damages from another, those rights are transferred to us to the extent of our payment. That person or organization must do everything necessary to secure our rights and must do nothing after loss to impair them. But you may waive your rights against another party in writing:

- a. Prior to a loss to your Covered Property.

- b. After a loss to your Covered Property only if, at time of loss, that party is one of the following:

- (1) Someone insured by this insurance;
- (2) A business firm:
 - (a) Owned or controlled by you; or
 - (b) That owns or controls you; or
- (3) Your tenant.

You may also accept the usual bills of lading or shipping receipts limiting the liability of carriers.

This will not restrict your insurance.

2. Applicable to Businessowners Liability Coverage:

If the insured has rights to recover all or part of any payment we have made under this policy, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

L. Transfer Of Your Rights And Duties Under This Policy

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual Named Insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

BUSINESSOWNERS

BP 04 17 01 10

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EMPLOYMENT-RELATED PRACTICES EXCLUSION

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

The following exclusion is added to Paragraph B.1.
**Exclusions - Applicable To Business Liability Coverage
in Section II - Liability:**

This insurance does not apply to "bodily injury" or "personal and advertising injury" to:

(1) A person arising out of any:

- (a) Refusal to employ that person;**
- (b) Termination of that person's employment; or**
- (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious prosecution directed at that person; or**

(2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" or "personal and advertising injury" to that person at whom any of the employment-related practices described in Paragraph (a), (b) or (c) above is directed.

This exclusion applies:

- (1) Whether the injury-causing event described in paragraph (a), (b) or (c) above occurs before employment, during employment or after employment of that person;**
- (2) Whether the insured may be liable as an employer or in any other capacity; and**
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.**

BUSINESSOWNERS

BP 05 01 07 02

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CALCULATION OF PREMIUM

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

The following is added:

The premium shown in the Declarations was computed based on rates in effect at the time the policy was issued. On each renewal, continuation, or anniversary of the effective date of this policy, we will compute the premium in accordance with our rates and rules then in effect.

BUSINESSOWNERS

BP 05 17 01 06

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - SILICA OR SILICA-RELATED DUST

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

- A. The following exclusion is added to Paragraph B. Exclusions in Section II - Liability:**

B. Exclusions

This insurance does not apply to:

SILICA OR SILICA-RELATED DUST

1. "Bodily injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, or ingestion of, "silica" or "silica-related dust".
2. "Property damage" arising, in whole or in part, out of the actual, alleged, threatened or suspected contact with, exposure to, existence of, or presence of, "silica" or "silica related dust".
3. "Personal and advertising injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, "silica" or "silica-related dust".

4. Any loss, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to or assessing the effects of, "silica" or "silica-related dust", by any insured or by any other person or entity.

- B. The following definitions are added to Paragraph F. Liability And Medical Expenses Definitions in Section II - Liability:**

1. "Silica" means silicon dioxide, (occurring in crystalline, amorphous and impure forms), silica particles, silica dust or silica compounds.
2. "Silica-related dust" means a mixture or combination of silica and other dust or particles.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**CAP ON LOSSES FROM CERTIFIED
ACTS OF TERRORISM**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

The following provisions are added to the Businessowners Policy and apply to Property and Liability Coverages:

A. CAP ON CERTIFIED TERRORISM LOSSES

"Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in accordance with the provisions of the federal Terrorism Risk Insurance Act, to be an act of terrorism pursuant to such Act. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:

1. The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and
2. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

If aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a calendar year and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

- B.** The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for loss or injury or damage that is otherwise excluded under this Policy.

**BUSINESSOWNERS
BP 05 77 01 06**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

FUNGI OR BACTERIA EXCLUSION (LIABILITY)

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

The following provisions are added to **Section II - Liability**:

A. The following exclusion is added to Paragraph B.1., Exclusions - Applicable To Business Liability Coverage:

t. Fungi Or Bacteria

- (1) "Bodily injury", "property damage" or "personal and advertising injury" which would not have occurred, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any "fungi" or bacteria on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury or damage.

- (2) Any loss, cost or expenses arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of, "fungi" or bacteria, by any insured or by any other person or entity.

This exclusion does not apply to any "fungi" or bacteria that are, are on, or are contained in, a good or product intended for bodily consumption.

B. The following definition is added Paragraph F. Liability And Medical Expenses Definitions:

1. "Fungi" means any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents or by-products produced or released by fungi.

**BUSINESSOWNERS
BP 15 04 05 14**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EXCLUSION – ACCESS OR DISCLOSURE OF
CONFIDENTIAL OR PERSONAL INFORMATION AND
DATA-RELATED LIABILITY – WITH LIMITED
BODILY INJURY EXCEPTION**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

- A. Exclusion B.1.q. of Section II – Liability is replaced by the following:**

This insurance does not apply to:

q. Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability

- (1) Damages, other than damages because of "personal and advertising injury", arising out of any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or**
- (2) Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.**

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in Paragraph (1) or (2) above.

However, unless Paragraph (1) above applies, this exclusion does not apply to damages because of "bodily injury".

As used in this exclusion, electronic data means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive, process, store, retrieve or send data.

**B. The following is added to Paragraph B.1.p.
Personal And Advertising Injury Exclusion of
Section II – Liability:**

This insurance does not apply to:

p. Personal And Advertising Injury

"Personal and advertising injury":

Arising out of any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of any access to or disclosure of any person's or organization's confidential or personal information.

BUSINESSOWNERS COVERAGE FORM INDEX

This index is provided only as a convenience. It should not be assumed to provide a reference to every provision that can affect a question, claim or coverage. To determine the full scope of coverage and pertinent restrictions and exclusions, the policy (including endorsements) must be read in its entirety. The features may also be affected by related provisions not referenced at all in the index, or noted elsewhere in it. For instance, an **Exclusion** feature addresses a specific policy exclusion; but restrictions of coverage and exclusions also appear within the areas where coverage, covered causes of loss, etc., are described.

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AMENDATORY ENDORSEMENT

This insurance does not apply under any of the coverages to damages arising out of:

- a. misconduct by an insured, or**
- b. the liability of the insured for the misconduct of another insured or any other person.**

The following definition is added:

Misconduct as used in this any person.

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Kenneth Seifert d/b/a The Hair Place and
Harmar Barbers, Inc., individually and on
behalf of all others similarly situated,

Civil File No: 20-cv-01102 JRT/DTS

Plaintiffs,

v.

IMT Insurance Company,

Defendant.

**EXHIBIT B TO DEFENDANT'S
MOTION TO DISMISS**



Wadena Insurance
BUSINESSOWNERS
DECLARATIONS
 Renewal

INSURED COPY

Account No: ACP0P5350

Policy No: WOP5350

Previous Policy No:

Agent Number: 660019

Named Insured:
 KENNETH SEIFERT
 DBA THE HAIR PLACE
 609 2ND ST
 KENYON, MN 55946

Agent:
 SAFEWAY AGENCY, INC
 34 W MAIN ST
 PO BOX 245
 DODGE CENTER, MN 55927

Policy Period: From **05/07/2019** to **05/07/2020** 12:01 A.M. Standard Time at your mailing address shown above.

Form Of Business: Individual

Insured's Business: BARBER SHOP

**IN RETURN FOR YOUR PAYMENT OF THE REQUIRED PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY,
 WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.**

PREMIUM SUMMARY	
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ADVANCED PREMIUM	\$987

This is a true and certified copy of the policy term shown.

_____ Countersignature	_____ Date
Date Issued: 03/25/2019	

A handwritten signature in cursive script, appearing to read 'John White'.



**BUSINESSOWNERS
DECLARATIONS
SCHEDULE OF INSUREDS**

Policy No: WOP5350
Policy Period:
From 05/07/2019 to 05/07/2020

INSURED NAMES

Individual

KENNETH SEIFERT

DBA THE HAIR PLACE



**BUSINESSOWNERS
DECLARATIONS
ENDORSEMENT SCHEDULE**

Policy No: WOP5350
Policy Period:
From 05/07/2019 to 05/07/2020

ENDORSEMENT NUMBER AND EDITION DATE	ENDORSEMENT TITLE
BP IN 01 07 13	Businessowners Coverage Form Index
BP 00 03 07 13	Businessowners Coverage Form
ML 60 22 06 94	Amendatory Endorsement
BO 08 01 07 13	Barber Shops And Hair Salons Professional Liability
BP 05 01 07 02	Calculation Of Premium
BP 05 23 01 15	Cap On Losses From Certified Acts Of Terrorism
BP 05 47 07 13	Computer Fraud And Funds Transfer Fraud
BP 05 15 01 15	Disclosure Pursuant To Terrorism Risk Insurance Act
BP 04 17 01 10	Employment-Related Practices Exclusion
BO 60 50 01 11	Equipment Breakdown Coverage
BP 15 04 05 14	Exclusion - Access Or Disclosure Of Confidential Or Personal Information And Data-Related Liability - With Limited Bodily Injury Exception
BO 60 02 01 11	Exclusion - Asbestos Or Asbestos Products
BO 60 22 01 11	Exclusion - Cosmetic Damage To Roof Coverings And Siding
BO 60 04 01 11	Exclusion - Punitive Damages
BP 05 17 01 06	Exclusion - Silica Or Silica-Related Dust
BO 60 84 05 16	Exclusion - Unmanned Aircraft
BP 05 77 01 06	Fungi Or Bacteria Exclusion (Liability)
BO 60 52 01 11	Identity Recovery Coverage - Identity Theft Case Management Service And Expense Reimbursement
BO 60 03 01 11	Lead Liability Exclusion
BO 01 25 03 15	Minnesota Changes
BP 04 46 07 13	Ordinance Or Law Coverage
BP 04 46 SC 05 16	Ordinance Or Law Schedule
BO 60 37 05 16	Property Ultra Plus
BP 04 56 07 13	Utility Services - Direct Damage
BP 04 56 SC 05 16	Utility Services - Direct Damage Schedule
BP 04 57 07 13	Utility Services - Time Element
BP 04 57 SC 05 16	Utility Services - Time Element Schedule



**BUSINESSOWNERS
DECLARATIONS
ENDORSEMENT SCHEDULE**

Policy No: WOP5350
Policy Period:
From 05/07/2019 to 05/07/2020

ENDORSEMENT NUMBER AND EDITION DATE	ENDORSEMENT TITLE
ML 7000 MN 02 19	Wadena Insurance Company - Amendatory Endorsement
BP 04 53 07 13	Water Back-Up And Sump Overflow
BP 04 53 SC 01 14	Water Back-Up And Sump Overflow Schedule



BUSINESSOWNERS DECLARATIONS

Policy No: WOP5350
 Policy Period:
 From 05/07/2019 to 05/07/2020

SECTION I - PROPERTY

Coverage is provided only where a premium or Limit of Insurance is shown.

Loc. No.	Location	Territory	Protection Class
1	609 2ND ST, KENYON, MN 55946	702	05

Loc. 1 - Deductibles (Apply Per Occurrence)

Property Deductible	Optional Coverage Deductible*	Windstorm or Hail Deductible
\$500	\$500	N/A

*Optional Coverage Deductible applies to Employee Dishonesty, Forgery Or Alteration, Money & Securities and Outdoor Signs.

Loc. 1 - Additional/Optional Property Coverages Premises Level

Coverage	Premium
Business Income From Dependent Properties* - \$10,000	Included
Secondary Dependent Properties - Included	
Equipment Breakdown	\$81
Property Ultra Plus	\$125
Water Back-Up and Sump Overflow*	Included
Additional/Optional Property Coverages Premises Level Premium	\$206

*Base limit included in an enhancement or PAK endorsement.



**BUSINESSOWNERS
DECLARATIONS
SECTION I - PROPERTY**

Policy No: WOP5350
Policy Period:
From 05/07/2019 to 05/07/2020

Bldg. No. 1 **Year Built** 1950 **Construction** Non-Combustible **Sprinkler** No **Occupancy** Occupant

Class Code 71332 **Class Description** Barber Shops

Bldg. 1 - Property

	Limit of Insurance	Valuation	Automatic Incr. Bldg Limit	BPP- Seasonal Incr.	Premium
Building	\$221,340	Replacement Cost	2%	NA	\$673
Business Personal Property	\$8,900	Replacement Cost	NA	25%	\$49
Total Building and Business Personal Property Premium					\$722

Bldg. 1 - Additional/Optional Property Coverages Building Level

Coverage	Premium
Ordinance or Law*	Included
Utility Services - Direct Damage*	Included
Utility Services - Time Element*	Included
Total Additional/Optional Property Coverages Building Level Premium	\$0

*Base limit included in an enhancement or PAK endorsement.

Policy-Wide Additional/Optional Property Coverages

Coverage	Premium
Computer Fraud and Funds Transfer Fraud*	Included
Identity Recovery	Included
Total Policy-Wide Additional/Optional Property Coverages Premium	\$0

*Base limit included in an enhancement or PAK endorsement.



BUSINESSOWNERS DECLARATIONS

Policy No: WOP5350
Policy Period:
From 05/07/2019 to 05/07/2020

SECTION II - LIABILITY

Coverage is provided only where a premium or Limit of Insurance is shown.

LIABILITY AND MEDICAL EXPENSES COVERAGES AND LIMITS

Policy-Wide Liability Coverages	Limit Of Insurance	Advanced Premium
Liability And Medical Expenses	\$1,000,000 Per Occurrence	
Medical Expenses	\$5,000 Per Person	
Damage To Premises Rented To You	\$100,000 Any One Premise	
Other Than Products/Completed Operations Aggregate	\$2,000,000	
Products/Completed Operations Aggregate	\$2,000,000	
(This coverage does not apply to Professional Liability.)		
TOTAL ADVANCED LIABILITY PREMIUM		\$33

LIABILITY EXPOSURE BASIS (All classifications based on payroll or sales are subject to audit.)

Loc #	Bldg #	Class Code	Classification	Estimated Premium Basis
1	1	71332	Barber Shops	\$8,900 (L)

Key to premium basis: (S) Sales, (P) Payroll and (L) Limit of Insurance

ADDITIONAL LIABILITY COVERAGES

Coverages Applicable Per Policy

Coverage	Premium
Barber Shops And Hair Salons Professional Liability - 1 Barbers	\$26

TOTAL ADDITIONAL LIABILITY COVERAGES PREMIUM \$26



**BUSINESSOWNERS
DECLARATIONS**

Policy No: WOP5350
Policy Period:
From 05/07/2019 to 05/07/2020

ADDITIONAL INTEREST AND INSUREDS

SCHEDULE OF MORTGAGEES

LOC: 1 BLDG: 1 ADDRESS: 609 2ND ST, KENYON, MN 55946

INTEREST: MORTGAGEE

NAME: SECURITY STATE BANK OF KENYON

ADDRESS: 602 2ND ST, KENYON, MN 55946

LOAN NUMBER:

BANK NUMBER:



Policy No: WOP5350

Agent No: 660019

**POLICYHOLDER DISCLOSURE
NOTICE OF TERRORISM
INSURANCE COVERAGE**

Coverage for acts of terrorism is included in your policy. You are hereby notified that under the Terrorism Risk Insurance Act, as amended in 2015, the definition of act of terrorism has changed. As defined in Section 102(1) of the Act: The term "act of terrorism" means any act or acts that are certified by the Secretary of the Treasury, in consultation with the Secretary of Homeland Security, and the Attorney General of the United States - to be an act of terrorism; to be a violent act or an act that is dangerous to human life; property or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of certain air carriers or vessel or the premise of a United States mission; and to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion. Under your coverage, any losses resulting from certified acts of terrorism may be partially reimbursed by the United States Government under a formula established by the Terrorism Risk Insurance Act, as amended. However, your policy may contain other exclusions which might affect your coverage, such as an exclusion for nuclear events. Under the formula, the United States Government generally reimburses 85% through 2015; 84% beginning on January 1, 2016; 83% beginning on January 1, 2017; 82% beginning on January 1, 2018; 81% beginning on January 1, 2019; and 80% beginning on January 1, 2020; of covered terrorism losses exceeding the statutorily established deductible paid by the insurance company providing the coverage. The Terrorism Risk Insurance Act, as amended, contains a \$100 billion cap that limits U.S. Government reimbursement as well as insurer's liability for losses resulting from certified acts of terrorism when the amount of such losses exceeds \$100 billion in any one calendar year. If the aggregate insured losses for all insurers exceed \$100 billion, your coverage may be reduced.

The portion of your annual premium that is attributable to coverage for acts of terrorism is \$0.00, and does not include any charges for the portion of losses covered by the United States Government under the Act.

I ACKNOWLEDGE THAT I HAVE BEEN NOTIFIED THAT UNDER THE TERRORISM RISK INSURANCE ACT, AS AMENDED, ANY LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM UNDER MY POLICY COVERAGE MAY BE PARTIALLY REIMBURSED BY THE UNITED STATES GOVERNMENT AND MAY BE SUBJECT TO A \$100 BILLION CAP THAT MAY REDUCE MY COVERAGE, AND I HAVE BEEN NOTIFIED OF THE PORTION OF MY PREMIUM ATTRIBUTABLE TO SUCH COVERAGE.

 Policyholder/Applicant's Signature

 Print Name

 Date



**IMPORTANT NOTICE
CHANGE OF COMPANY ADDRESS**

IMT Insurance and Wadena Insurance Companies have moved to:

**7825 Mills Civic Parkway
West Des Moines, Iowa 50266**

The new address is reflected in various forms and notices that may be included in your renewed policy.

Although our address is changing, our contact information remains the same:

**Phone: 800-274-3531
Website: imtins.com**

MINNESOTA FRAUD STATEMENT

Any person who files a claim with intent to defraud or helps commit a fraud against an insurer is guilty of a crime.

POLICY NUMBER: WOP5350

**BUSINESSOWNERS
BO 08 01 07 13****THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****BARBER SHOPS AND HAIR SALONS
PROFESSIONAL LIABILITY**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM**SCHEDULE**

Limits Of Liability - Professional Liability Only	
Per Occurrence Limit	\$1,000,000
Aggregate Limit	\$2,000,000
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

Section II - Liability is amended as follows:

A. For the insurance provided by this endorsement, all provisions under Paragraph A.1. **Business Liability** will also apply to other injury.

B. Paragraph A. **Coverages** also applies to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or failure to render "barber shop or hair salon services" in connection with the operation of your business as a barber shop or hair salon.

C. With respect to the coverage provided by this endorsement, Paragraph B. **Exclusions** is amended as follows:

1. Paragraph 1.b. **Contractual Liability** is replaced by the following:

This insurance does not apply to:

b. "Bodily injury", "property damage", "personal and advertising injury" or other injury for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

2. The following exclusions do not apply:

- a. Paragraph 1.j. **Professional Services**;
- b. Paragraph 1.k.(6) **Damage To Property**; and
- c. Paragraph 1.m. **Damage To Your Work**.

3. The following exclusions are added:

This insurance does not apply to "bodily injury", "property damage", "personal and advertising injury" or other injury arising out of:

- a. The violation of any statute, or governmental rule or regulation; however, this exclusion does not apply to the failure to perform a predisposition of skin test.
- b. The rendering or failure to render any professional service, treatment, advice or instruction, except for "barber shop or hair salon services".

This exclusion applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved that which is described in Paragraph a. or b.

D. Paragraph C. **Who Is An Insured** is amended as follows:

1. Paragraph 2.a. is replaced by the following:

2. Each of the following is also an insured:

- a. Your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However,

none of these "employees" is an insured for:

(1) "Bodily injury", "personal and advertising injury" or other injury:

(a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), or to a co-"employee" while that co-"employee" is either in the course of his or her employment or performing duties related to the conduct of your business;

(b) To the spouse, child, parent, brother or sister of that co-"employee" as a consequence of Paragraph **(1)(a)** above;

(c) For which there is any obligation to share damages with or repay someone else who must pay damages of the injury described in Paragraph **(1)(a)** or **(1)(b)**; or

(2) "Bodily injury", "property damage", "personal and advertising injury" or other injury arising out of his or her providing or failing to provide professional services. However, your "employees" are insureds with respect to their providing or failing to provide "barber shop or hair salon services" in connection with the operation of your business as a barber shop or hair salon.

(3) "Property damage" to property:

(a) Owned, occupied or used by; or

(b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;

you, any of your "employees", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

2. The following is added to Paragraph 2.:

- e.** Any operator who rents or leases from the insured booth space, chairs or any portion of your premises for the purpose of conducting "barber shop or hair salon services" and any "employee" of such operator, but only with respect to liability arising out of such services.

E. For the insurance provided by this endorsement, Paragraph D. Liability And Medical Expenses Limits Of Insurance is replaced by the following:

1. The Limits Of Insurance shown in the Schedule and the rules below fix the most we will pay regardless of the number of:

a. Insureds;

b. Claims made or "suits" brought; or

c. Persons or organizations making claims or bringing "suits".

2. Subject to the Aggregate Limit Of Insurance shown in the Schedule, the most we will pay for the sum of all damages because of all "bodily injury", "property damage", or all other injury arising out of any one "occurrence", or "personal and advertising injury" sustained by any one person or organization, is the per "occurrence" limit shown in the Schedule.

3. The Limits Of Insurance shown in the Schedule apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

F. For the coverage provided by this endorsement, Paragraph F. Liability And Medical Expenses Definitions is amended as follows:

1. The definition of "occurrence" is amended to include any act or omission arising out of the rendering of or failure to render "barber shop or hair salon services".

2. The following definition is added:

"Barber shop or hair salon services" means:

a. Haircutting, hairstyling, hair dyeing, hair trimming, hair shaving, hair conditioning, hair shampooing; or

b. Advice or instruction for the purpose of appearance or personal grooming or therapy in connection with any of the services described in **a.** above.

However, "barber shop or hair salon services" does not include:

a. The removal of, or the attempted removal of, hair by electrolysis;

b. Hair implanting or hair transplanting or any attempt at these; or

- c. The use of any dye or coloring to eyelashes or eyebrows except mascara or eyebrow pencils.**

POLICY NUMBER: WOP5350

BUSINESSOWNERS

BO 60 22 01 11

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**EXCLUSION - COSMETIC DAMAGE TO
ROOF COVERINGS AND SIDING**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Premises Number	Building Number	Covered Property	Exclusion Applies To:	
			Roof Coverings	Siding
1	1	609 2ND ST, KENYON, MN 55946	X	

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Section I - Property is amended as follows:

- A. With respect to the building(s) listed in the Schedule of this endorsement, the following exclusion is added to the Paragraph B.1 - Exclusions:

Cosmetic Loss Or Damage

1. We will not pay for "cosmetic loss or damage" caused directly or indirectly by Windstorm or Hail to:
 - a. "Roof coverings" as indicated in the Schedule.
 - b. "Siding" as indicated in the Schedule.
2. But we will cover windstorm or hail damage to that portion of the "roof covering" or "siding" that will allow the penetration of water, or result in the failure of the "roof covering" or "siding" to perform its intended function of keeping out the elements over an extended period of time.

B. The following definitions are added to Section H. - Property Definitions:

"Cosmetic loss or damage" means loss or damage that alters only the physical appearance but does not result in the failure to perform intended function of keeping out the elements over an extended period of time.

"Roof Covering" means the roofing material exposed to the weather, the underlayments applied for moisture protection, and all flashings required in the replacement of a "roof covering".

"Siding" means the material exposed to the weather providing exterior protection to the walls of a building or structure.

POLICY NUMBER: WOP5350

BUSINESSOWNERS**BO 60 37 05 16****THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****PROPERTY ULTRA PLUS**

This endorsement modifies insurance provided under the following.

BUSINESSOWNERS COVERAGE FORM**SCHEDULE**

Premises Number	Premises Address		
1	609 2ND ST, KENYON, MN 55946		
Coverage		Limit Of Insurance	Page
Accounts Receivable:			
On Premises		\$25,000	6
Off Premises		\$5,000	6
Brands And Labels		\$10,000	6
Business Income From Dependent Properties (Including coverage for Secondary Dependent Properties)		\$10,000	4
Claims Expense		\$10,000	4
Computer Fraud And Funds Transfer Fraud		\$5,000 Included in Endorsement BP 05 47	
Credit Card Receipts		\$2,500	6
Employee Dishonesty		\$5,000	7
Extended Business Income		90 Days	3
Fine Arts Coverage		\$10,000	4
Fire Department Service Charge		\$5,000	3

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Coverage	Limit Of Insurance	Page
Fire Extinguisher Systems Recharge Expense	\$10,000	4
Forgery Or Alteration	\$5,000	3
Jewelry, Watches, Etc. - Theft Limitation	\$5,000	3
Leased Gap Coverage - Office Equipment	Up To Business Personal Property Limit	7
Lock Replacement	\$5,000	4
Money And Securities: Inside The Premises	\$25,000	7
Outside The Premises	\$5,000	7
Money Orders And Counterfeit Money	\$5,000	3
Newly Acquired Or Constructed Property: Building Coverage Extension	\$500,000	5
Business Personal Property Coverage Extension	\$250,000	5
Period Of Coverage Extension	60 Days	5
Ordinance Or Law (If Building Coverage is provided on premises): Demolition Cost And Increased Cost Of Construction Coverage For Loss To Undamaged Portion Of The Building	Included in Endorsement BP 04 46 \$25,000 Up to Building Limit Included	
Outdoor Property: Per Occurrence	\$10,000	5
Per Tree, Shrub Or Plant	\$1,000	5
Outdoor Signs	\$10,000	7
Personal Effects	\$10,000	6
Personal Property In Transit	\$10,000	6
Personal Property Off-premises	\$25,000	5
Pollutant Clean-up And Removal	\$25,000	3
Premises Boundary Redefined - Broadened To 1,000 Feet	Included	3
Reward Payment	\$10,000	4
Salesperson's Samples	\$10,000	5
Unauthorized Business Card Use	\$5,000	5
Utility Service (Provides Water, Communication & Power Supply Services): Direct Damage	\$10,000 Included in Endorsement BP 04 56	
Time Element (Includes Wastewater Removal Property Coverage)	\$10,000 Included in Endorsement BP 04 57	
Valuable Papers And Records On Premises	\$25,000	6
Off Premises	\$10,000	6
Water Back-up And Sump Overflow: Covered Property Annual Aggregate Business Income And Extra Expense Annual Aggregate	Included in Endorsement BP 04 53 \$10,000 \$5,000	
The Schedule above is a summary of the Coverages and the Limits Of Insurance provided by the Businessowners Property Ultra Plus. If higher limits are purchased, the Limit Of Insurance will be shown on the Declarations or on the endorsement referenced for the coverage.		

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SECTION I - PROPERTY

With respect to coverage provided by this endorsement, the provisions of **Section I - Property**, including **Paragraph D. Deductibles**, of the Businessowners Coverage Form apply, unless modified by this endorsement. The coverage provided by this endorsement applies separately to each premises shown in the Schedule above.

Section I - Property is amended as follows:

A. Premises Boundary Redefined - Broadened To 1,000 Feet

With respect to the coverage provided by this endorsement, any reference to the distance limitation of within 100 feet of the buildings or structures or within 100 feet of the premises described in the Declarations is amended to read within 1,000 feet of the buildings or structures or within 1,000 feet of the premises described in the Schedule.

B. Jewelry, Watches, Etc. - Theft Limitation

With respect to the coverage provided by this endorsement, **Paragraph 4.c.(2) Limitations** is replaced by the following:

- (2) Jewelry, watches, watch movements, jewels, pearls, precious and semiprecious stones, bullion, gold, silver, platinum and other precious alloys or metals is limited to the Jewelry, Watches, Etc. - Theft Limitation limit shown in the Schedule. This limit does not apply to jewelry and watches worth \$100 or less per item.

C. With respect to the coverage provided by this endorsement, Paragraph 5. Additional Coverages under A. Coverages is amended as follows:

1. Fire Department Service Charge

Paragraph c. Fire Department Service Charge is replaced by the following:

c. Fire Department Service Charge

When the fire department is called to save or protect Covered Property from a Covered Cause of Loss, we will pay up to the Fire Department Service Charge Limit Of Insurance shown in the Schedule for service at each premises described in the Schedule, unless a different limit is shown in the Declarations. Such limit is the most we will pay for regardless of the number of responding fire departments or fire

units, and regardless of the number or types of services performed.

This Additional Coverage applies to your liability for fire department service charges:

(1) Assumed by contract or agreement prior to loss; or

(2) Required by local ordinance.

2. Extended Business Income

The number of consecutive days for item f.(2)(a)(ii) under **Extended Business Income** has been increased to the number of days shown on the Schedule under **Extended Business Income**, unless a greater number of consecutive days is shown in the Declarations.

3. Pollutant Clean-up And Removal

The last paragraph of item h. **Pollutant Clean-up And Removal** is replaced by the following:

The most we will pay for each location described in the Schedule under this Additional Coverage is the Pollutant Clean-up And Removal Limit Of Insurance shown on the Schedule for the sum of all such expenses arising out of Covered Causes of Loss occurring during each separate 12-month period of this policy.

4. Money Orders And "Counterfeit Money"

The last paragraph of item j. **Money Orders And "Counterfeit Money"** is replaced by the following:

The most we will pay for any loss under this Additional Coverage is the Money Orders And "Counterfeit Money" Limit Of Insurance shown in the Schedule.

5. Forgery Or Alteration

Paragraph k.(4) Forgery Or Alteration is replaced by the following:

- (4) The most we will pay for any loss, including legal expenses, under this Additional Coverage is the Forgery Or Alteration Limit Of Insurance shown in the Schedule, unless a higher Limit Of Insurance is shown in the Declarations.

6. Business Income From Dependent Properties

The last paragraph of item m.(1) under **Business Income From Dependent Properties** is replaced by the following:

The most we will pay under this Additional Coverage is the Business Income From Dependent Properties Limit Of Insurance shown in the Schedule, unless a higher Limit Of Insurance is indicated in the Declarations.

7. Fire Extinguisher Systems Recharge Expense

Paragraph o.(3) under **Fire Extinguisher Systems Recharge Expense** is replaced by the following:

- (3) The most we will pay under this Additional Coverage in any one occurrence is the Fire Extinguisher Systems Recharge Expense Limit Of Insurance shown in the Schedule.

D. With respect to the coverage provided by this endorsement, the following items are added to Paragraph A.5. Additional Coverages:

s. Claims Expense

We will pay for the reasonable costs you incur, as required by policy conditions, after a covered property loss. This includes the cost of taking inventory, making appraisals and preparing other data to determine the extent of your loss.

We will not pay for fees or expenses you incur from independent or public insurance adjusters or for expenses related to claims not covered by this policy.

The most we will pay for any loss under this Additional Coverage is the Claims Expense Limit Of Insurance shown in the Schedule.

t. Fine Arts Coverage

We will pay for direct loss or damage to Fine Arts, whether owned by you or others, and in your care, custody or control.

Fine arts includes, but is not limited to antiques, paintings, etchings, drawings, tapestries, sculptures and fragile property such as porcelains, china and marble.

The most we will pay for loss in any one occurrence under this Additional Coverage is the Fine Arts Limit Of Insurance shown in the Schedule at each premises listed in the Schedule. Our payment for loss of or damage

to personal property of others will only be for the account of the owner of the property.

The value of fine arts will be the least of the following amounts:

- (1) The actual cash value of that property at the time of the loss;
- (2) The cost of reasonably restoring that property to its condition immediately before loss; or
- (3) The cost of replacing that property with substantially identical property.

In the event of loss, the value of property will be determined as of the time of loss.

In case of loss to any part of a pair or set we will:

- (1) Repair or replace any part to restore the pair or set to its value before the loss; or
- (2) Pay the difference between the value of the pair or set before and after the loss.

u. Lock Replacement

We will pay the necessary expenses you incur to replace or rekey locks made necessary due to theft or unauthorized copying of keys, damage to door locks caused by covered theft loss or any other legitimate security concern caused in a covered theft loss.

This insurance does not apply to loss caused by vandalism, wear and tear, or mysterious disappearance of keys.

The most we will pay for loss or damage in any one occurrence under this Additional Coverage is the Lock Replacement Limit Of Insurance shown in the Schedule.

We will not pay for the necessary expenses until the amount of the necessary expenses exceed \$50 for each occurrence.

v. Reward Payment

We will pay for rewards to any person or persons, other than you, your officers, your partners or your employees, for information leading to the arrest and conviction of the person(s) who caused the loss covered under this policy.

The most we will pay per occurrence under this Additional Coverage, regardless of the number of persons involved in providing information, is the Reward Payment Limit Of Insurance shown in the Schedule.

w. Salesperson's Samples

We will pay for loss or damage to samples of your stock in trade and similar property of others, while such property is in the care, custody or control of your salesperson, sales agents, or yourself while acting as a salesperson and while more than 1,000 feet from the premises described in the Schedule.

The most we will pay per occurrence under this Additional Coverage is the Salesperson's Samples Limit Of Insurance shown in the Schedule.

x. Unauthorized Business Card Use

We will pay for your loss that results directly from the theft or unauthorized use of credit, debit or charge cards issued in your business name and used solely for business purposes. However, we will not pay for theft or unauthorized use of credit, debit or charge cards entrusted to others or your employees.

The most we will pay per occurrence under this Additional Coverage is the Unauthorized Business Card Use Limit Of Insurance shown on the Schedule.

E. With respect to the coverage provided by this endorsement, Paragraph 6. Coverage Extensions under A. Coverages is amended as follows:

1. Newly Acquired Or Constructed Property

a. Building Coverage Extension

The last paragraph of item a.(1) Buildings is replaced by the following:

The most we will pay for loss or damage under this Extension is the Newly Acquired Or Constructed Property - Building Coverage Extension Limit Of Insurance shown in the Schedule.

b. Business Personal Property Coverage Extension

The last paragraph of item a.(2) Business Personal Property is replaced by the following:

The most we will pay for loss or damage under this Extension is the Newly Acquired Or Constructed Property - Business Personal Property Coverage Extension Limit Of Insurance shown in the Schedule.

c. Period Of Coverage Extension

The number of days for item a.(3)(b) Period Of Coverage has been increased to the number of days shown on the Schedule under Newly Acquired Or Constructed Property - Period Of Coverage Extension.

2. Personal Property Off-premises

Paragraph b. Personal Property Off-premises is replaced by the following:

b. Personal Property Off-premises

You may extend the insurance provided by this policy to apply to your Covered Property, other than "money" and "securities", "valuable papers and records", or accounts receivable, while it is at a premises you do not own, lease or operate. The most we will pay for loss or damage under this Extension is the Personal Property Off-premises Limit Of Insurance shown in the Schedule.

3. Outdoor Property

Paragraph c. Outdoor Property is deleted and replaced by the following:

c. Outdoor Property

You may extend the insurance provided by this policy to apply to your outdoor fences, radio and television antennas (including satellite dishes), signs (other than signs attached to buildings), trees, shrubs and plants (other than trees, shrubs or plants which are part of a vegetated roof), including debris removal expense. Loss or damage must be caused by or result from any of the following causes of loss:

- (1) Fire;
- (2) Lightning;
- (3) Explosion
- (4) Riot or Civil Commotion; or
- (5) Aircraft

The most we will pay for loss or damage under this Extension is the Outdoor Property Per Occurrence Limit shown in the Schedule, unless a higher Limit Of Insurance is shown in the Declarations. However, we will not pay more than the Outdoor Property Per Tree, Shrub Or Plant Limit shown in the Schedule for any one tree, shrub or plant.

Subject to all aforementioned terms and limitations of coverage, this Coverage Extension includes the expense of removing from the described premises the debris of trees, shrubs and plants which are the property of others, except in the situation in which you are a tenant and such property is owned by the landlord of the described premises.

4. Personal Effects

The last paragraph of item d. **Personal Effects** is replaced by the following:

The most we will pay for loss or damage under this Extension at each premises listed in the Schedule is the Personal Effects Limit Of Insurance shown in the Schedule.

5. Valuable Papers And Records

Paragraph e.(3) **Valuable Papers And Records** is replaced by the following:

(3) The most we will pay under this Coverage Extension for loss or damage to "valuable papers and records" in any one occurrence at the premises described in the Schedule on this endorsement is the Valuable Papers And Records On Premises Limit shown in the Schedule, unless a higher Limit Of Insurance is shown in the Declarations.

For "valuable papers and records" not at the described premises, the most we will pay is the Valuable Papers And Records Off Premises Limit shown in the Schedule.

6. Accounts Receivable

Paragraph f.(2) **Accounts Receivable** is replaced by the following:

(2) The most we will pay under this Coverage Extension for loss or damage in any one occurrence at the premises described in the Schedule on this endorsement is the Accounts Receivable On Premises Limit

shown in the Schedule, unless a higher Limit Of Insurance is shown in the Declarations.

For accounts receivable not at the described premises, the most we will pay is the Accounts Receivable Off Premises Limit shown in the Schedule.

F. With respect to the coverage provided by this endorsement, the following items are added to Paragraph A.6. **Coverage Extensions:**

h. Brands And Labels

If branded or labeled merchandise that is Covered Property is damaged by a Covered Cause of Loss, we may take all or part of the property at an agreed or appraised value. If so, you may:

- (1) Stamp the word salvage on the merchandise or its containers, if the stamp will not physically damage the merchandise; or
- (2) Remove the brands or labels, if doing so will not physically damage the merchandise. You must relabel the merchandise or its containers to comply with the law.

We will pay reasonable costs you incur to perform the activity described in h.(1) or h.(2) above. The most we will pay for these costs under this Coverage Extension is the Brands And Labels Limit Of Insurance shown in the Schedule.

i. Credit Card Receipts

You may extend the insurance that applies to Business Personal Property to apply to all sums due to you from the payors of credit card charge receipts, including your normal collection expenses, provided you are unable to collect from them due to direct loss or damage to your credit card receipts from a Covered Cause of Loss.

The most we will pay per occurrence for this Coverage Extension is the Credit Card Receipts Limit Of Insurance shown in the Schedule.

j. Personal Property In Transit

You may extend the insurance provided by this policy to apply to your Covered Property, other than "money" and "securities",

“valuable papers and records”, or accounts receivable, while it is in the course of transit. The most we will pay for loss or damage under this Extension is the Personal Property In Transit Limit Of Insurance shown in the Schedule.

G. With respect to the coverage provided by this endorsement, the following is added to Paragraph E.5. Property Loss Conditions - Loss Payment:

i. Lease Gap Coverage - Office Equipment

Applicable to covered Business Personal Property you lease or rent from others, in the event of a covered loss to leased or rented office equipment, our limit of liability will be the greater of:

- (1) The amount due under the terms of the lease or rental agreement to which your covered Business Personal Property is subject; or
- (2) The cost to repair or replace, with property of like kind and quality.

H. With respect to the coverage provided by this endorsement, Section G. Optional Coverages is amended as follows:

1. The introductory paragraph is deleted and replaced with the following:

If shown as applicable in the Schedule of this endorsement, the following Optional Coverages also apply. If higher limits are provided, they will be shown on the Declarations under the designated coverage. These coverages are subject to the terms and conditions applicable to property coverage in this policy, except as provided below:

2. Outdoor Signs

Paragraph 1.d. Outdoor Signs is replaced by the following:

- d. The most we will pay for loss or damage in any one occurrence is the Limit Of Insurance for Outdoor Signs shown in the Schedule, unless a higher Limit Of Insurance is shown in the Declarations.

3. Money And Securities

Paragraph 2.c. Money And Securities is replaced by the following:

c. The most we will pay for loss in any one occurrence is:

(1) The Money And Securities - Inside The Premises Limit Of Insurance shown in the Schedule, unless a higher limit is shown in the Declarations, for “money” and “securities” while:

(a) In or on the premises described in the Schedule on this endorsement; or

(b) Within a bank or savings institution; and

(2) The Money And Securities - Outside The Premises Limit Of Insurance shown in the Schedule, unless a higher limit is shown in the Declarations, for “money” and “securities” while anywhere else.

4. Employee Dishonesty

Paragraph 3.c. Employee Dishonesty is replaced by the following:

c. The most we will pay for loss or damage in any one occurrence is the Limit Of Insurance for Employee Dishonesty shown in the Schedule, unless a higher limit is shown in the Declarations.

SECTION III - COMMON POLICY PROVISIONS

I. The following policy condition is added to Section III - Common Policy Conditions (Applicable To Section I - Property And Section II - Liability):

M. Insurance Under Same Coverage With Different Limits

If more than one endorsement has the same coverage, but different limits, the endorsement with the highest limit will be the most we will pay for the covered loss. The limits may not be combined to obtain a higher limit of insurance.

POLICY NUMBER: WOP5350

BUSINESSOWNERS**BO 60 50 01 11****THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****EQUIPMENT BREAKDOWN COVERAGE**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM**SCHEDULE**

The following deductible amount will apply to each loss after all other adjustments have been made.
Deductible: \$500
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. The following is added to Paragraph A.3. Covered Causes Of Loss in Section I - Property.**Additional Coverage - Equipment Breakdown**

The term Covered Cause of Loss includes the Additional Coverage Equipment Breakdown as described and limited below.

1. We will pay for direct physical damage to Covered Property that is the direct result of an "accident." As used in this Additional Coverage, "accident" means a fortuitous event that causes direct physical damage to "covered equipment." The event must be one of the following:
 - a. Mechanical breakdown, including rupture or bursting caused by centrifugal force;
 - b. Artificially generated electrical, magnetic or electromagnetic energy, including electric arcing, that damages, disturbs, disrupts or otherwise interferes with any electrical or electronic wire, device, appliance, system or network;
 - c. Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control;
 - d. Loss or damage to steam boilers, steam pipes, steam engines or steam turbines caused by or resulting from any condition or event inside such equipment; or
 - e. Loss or damage to hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment.
2. The following coverages also apply to the direct result of an "accident." These

coverages do not provide additional amounts of insurance.

a. Expediting Expenses

With respect to your damaged Covered Property, we will pay the reasonable extra cost to:

- (1) Make temporary repairs; and
- (2) Expedite permanent repairs or permanent replacement.

The most we will pay for loss or expense under this coverage is \$25,000.

b. Hazardous Substances

We will pay for the additional cost to repair or replace Covered Property because of contamination by a "hazardous substance." This includes the additional expenses to clean up or dispose of such property.

This does not include contamination of "perishable goods" by refrigerant, including but not limited to ammonia, which is addressed in 2.c.(1)(b) below. As used in this coverage, additional costs mean those beyond what would have been payable under this Equipment Breakdown Coverage had no "hazardous substance" been involved.

The most we will pay for loss, damage or expense under this coverage, including actual loss of Business Income you sustain and necessary Extra Expense you incur, is \$25,000.

c. Spoilage

(1) We will pay:

- (a)** For physical damage to “perishable goods” due to spoilage;
- (b)** For physical damage to “perishable goods” due to contamination from the release of refrigerant, including but not limited to ammonia;
- (c)** Any necessary expenses you incur to reduce the amount of loss under this coverage to the extent that they do not exceed the amount of loss that otherwise would have been payable under this coverage.

- (2)** If you are unable to replace the “perishable goods” before its anticipated sale, the amount of our payment will be determined on the basis of the sales price of the “perishable goods” at the time of the “accident,” less discounts and expenses you otherwise would have had. Otherwise our payment will be determined in accordance with the Loss Payment condition.

The most we will pay for loss, damage or expense under this coverage is \$50,000.

d. Data Restoration

We will pay for your reasonable and necessary cost to research, replace and restore lost “electronic data.”

The most we will pay for loss or expense under this coverage, including actual loss of Business Income you sustain and necessary Extra Expense you incur, is \$25,000.

e. Service Interruption

- (1)** Any insurance provided for Business Income, Extra Expense or Spoilage is extended to apply to your loss, damage or expense caused by the interruption of utility services. The interruption must result from an “accident” to equipment, including overhead transmission lines, that is owned by a utility, landlord, a

landlord’s utility or other supplier who provides you with any of the following services: electrical power, waste disposal, air conditioning, refrigeration, heating, natural gas, compressed air, water, steam, internet access, telecommunications services, wide area networks or data transmission. The equipment must meet the definition of “covered equipment” except that it is not Covered Property.

- (2)** We will not pay for any loss of Business Income you sustain that results from the interruption of utility services during the first 24 hours following the “accident.” However, if the “period of restoration” begins more than 24 hours after the time of the direct physical damage for Business Income, then that time period will apply instead of the 24 hours provided for in this paragraph.
- (3)** The most we will pay in any “one accident” for loss, damage or expense under this coverage is the applicable limit for Business Income, Extra Expense or Spoilage.

f. Business Income and Extra Expense

Any insurance provided under this policy for Business Income or Extra Expense is extended to the coverage provided by this endorsement. The most we will pay for loss or expense under this coverage is the applicable limit for Business Income and Extra Expense.

B. Paragraph B. Exclusions in Section I - Property is amended as follows:

Equipment Breakdown Exclusions

All exclusions in Section I - Property apply except as modified below and to the extent that coverage is specifically provided by this Additional Coverage Equipment Breakdown.

1. The following exclusions are modified:

- a.** The following is added to Exclusion B.1.g.:

However, if electrical “covered equipment” requires drying out because of Water as described in g.(1) through g.(3)

above, we will pay for the direct expenses of such drying out subject to the applicable Limit of Insurance and deductible for Building or Business Personal Property, whichever applies.

- b. As respects this endorsement only, the next to the last paragraph in Exclusion B.1.h. is deleted and replaced with the following:

However, if excluded loss or damage, as described in Paragraph (1) above results in an "accident," we will pay only for the loss, damage or expense caused by such "accident."

- c. As respects this endorsement only, the last paragraph of Exclusion B.2.l. is deleted and replaced with the following:

But if an excluded cause of loss that is listed in 2.l.(1) through (7) results in an "accident," we will pay for the loss, damage or expense caused by that "accident."

- d. The following is added to Exclusions B.2.m. and B.2.n.:

We will also pay for direct physical loss or damage caused by an "accident."

2. The following exclusions are added:

- a. We will not pay for loss, damage or expense caused by or resulting from:

(1) A hydrostatic, pneumatic or gas pressure test of any boiler or pressure vessel, or an electrical insulation breakdown test of any type of electrical equipment; or

(2) Any of the following:

(a) Defect, programming error, programming limitation, computer virus, malicious code, loss of data, loss of access, loss of use, loss of functionality or other condition within or involving "electronic data" of any kind; or

(b) Misalignment, miscalibration, tripping off-line, or any condition which can be corrected by resetting, tightening, adjusting or

cleaning, or by the performance of maintenance.

However, if an "accident" results, we will pay for the resulting loss, damage or expense caused by that "accident."

- b. With respect to Service Interruption coverage, we will also not pay for an "accident" caused by or resulting from: fire; lightning; windstorm or hail; explosion (except as specifically provided in A.1.c. above); smoke; aircraft or vehicles; riot or civil commotion; vandalism; sprinkler leakage; falling objects; weight of snow, ice or sleet; freezing; collapse; flood or earth movement.

- c. With respect to Business Income, Extra Expense and Service Interruption coverages, we will also not pay for any increase in loss resulting from an agreement between you and your customer or supplier.

- d. We will not pay for any loss or damage to animals.

C. The following is added to Paragraph C. Limits Of Insurance in Section I - Property:

The most we will pay for loss, damage or expense under this endorsement arising from any "one accident" is the applicable Limit of Insurance for Section I - Property in the Declarations. Coverage provided under this endorsement does not provide an additional amount of insurance.

- D. With respect to the coverage provided under this endorsement, the following conditions are added to Paragraph F. Property General Conditions in Section I - Property.

1. Suspension

Whenever "covered equipment" is found to be in, or exposed to, a dangerous condition, any of our representatives may immediately suspend the insurance against loss from an "accident" to that "covered equipment." This can be done by mailing or delivering a written notice of suspension to:

- a. Your last known address; or
- b. The address where the "covered equipment" is located.

Once suspended in this way, your insurance can be reinstated only by an endorsement for that "covered equipment." If we suspend your insurance, you will get a pro rata refund of premium for that "covered equipment" for the period of suspension. But the suspension will be effective even if we have not yet made or offered a refund.

2. Jurisdictional Inspections

If any property that is "covered equipment" under this endorsement requires inspection to comply with state or municipal boiler and pressure vessel regulations, we agree to perform such inspection on your behalf. We do not warrant that conditions are safe or healthful.

3. Environmental, Safety and Efficiency Improvements

If "covered equipment" requires replacement due to an "accident," we will pay your additional cost to replace with equipment that is better for the environment, safer or more efficient than the equipment being replaced.

However, we will not pay more than 125% of what the cost would have been to replace with like kind and quality. This condition does not increase any of the applicable limits. This condition does not apply to any property to which Actual Cash Value applies.

E. Paragraph G.4. Optional Coverages - Equipment Breakdown Protection Coverage in Section I - Property is deleted.

F. The following definitions are added to Paragraph H. Property Definitions in Section I - Property:

1. "Covered equipment"

a. "Covered equipment" means Covered Property:

- (1) That generates, transmits or utilizes energy, including electronic communications and data processing equipment; or
- (2) Which, during normal usage, operates under vacuum or pressure, other than the weight of its contents.

b. None of the following is "covered equipment":

- (1) Structure, foundation, cabinet, compartment or air supported structure or building;
- (2) Insulating or refractory material;
- (3) Sewer piping, buried vessels or piping, or piping forming a part of a sprinkler or fire suppression system;
- (4) Water piping other than boiler feedwater piping, boiler condensate return piping or water piping forming a part of a refrigerating or air conditioning system;
- (5) "Vehicle" or any equipment mounted on a "vehicle";
- (6) Satellite, spacecraft or any equipment mounted on a satellite or spacecraft;
- (7) Dragline, excavation or construction equipment; or
- (8) Equipment manufactured by you for sale.

2. "Hazardous substance" means any substance that is hazardous to health or has been declared to be hazardous to health by a governmental agency.

3. "One accident" means: If an initial "accident" causes other "accidents," all will be considered "one accident." All "accidents" that are the result of the same event will be considered "one accident".

4. "Perishable goods" means personal property maintained under controlled conditions for its preservation, and susceptible to loss or damage if the controlled conditions change.

5. "Vehicle" means, as respects this endorsement only, any machine or apparatus that is used for transportation or moves under its own power. "Vehicle" includes, but is not limited to, car, truck, bus, trailer, train, aircraft, watercraft, forklift, bulldozer, tractor or harvester.

However, any property that is stationary, permanently installed at a covered location and that receives electrical power from an external power source will not be considered a "vehicle."

POLICY NUMBER: WOP5350

BUSINESSOWNERS**BP 04 46 07 13****THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****ORDINANCE OR LAW COVERAGE**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM**SCHEDULE**

Premises Number	Building Number	Coverage 1 (Check if applies)	Coverage 2 Limit Of Insurance	Coverage 3 Limit Of Insurance	Coverages 2 And 3 Combined Limit Of Insurance*
			See Schedule	BP 04 46 SC	

Business Income And Extra Expense Optional Coverage (Enter Yes or No): No

Number Of Hours' Waiting Period For Period Of Restoration Applicable To Business Income And Extra Expense Optional Coverage:

***Do not enter a Combined Limit of Insurance if individual Limits of Insurance are selected for Coverages 2 and 3, or if one of these Coverages is not applicable.**

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Section I - Property is amended as follows:

A. Each Coverage - Coverage 1, Coverage 2 and Coverage 3 - is provided under this endorsement only if that Coverage(s) is chosen by entry in the above Schedule and then only with respect to the building identified for the Coverage(s) in the Schedule.

B. Application Of Coverage(s)

The Coverage(s) provided by this endorsement applies only if both **B.1.** and **B.2.** are satisfied and are then subject to the qualifications set forth in **B.3.**

1. The ordinance or law:

a. Regulates the demolition, construction or repair of buildings, or establishes zoning or land use requirements at the described premises; and

b. Is in force at the time of loss.

But coverage under this endorsement applies only in response to the minimum requirements of the ordinance or law. Losses and costs incurred in complying with recommended actions or standards that exceed actual

requirements are not covered under this endorsement.

2. The building sustains direct physical damage:

a. That is covered under this policy and as a result of such damage, you are required to comply with the ordinance or law; or

b. That is covered under this policy and direct physical damage that is not covered under this policy, and as a result of the building damage in its entirety, you are required to comply with the ordinance or law.

c. But if the damage is not covered under this policy, and such damage is the subject of the ordinance or law, then there is no coverage under this endorsement even if the building has also sustained covered direct physical damage.

3. In the situation described in **B.2.b.** above, we will not pay the full amount of loss otherwise payable under the terms of Coverages 1, 2 and/or 3 of this endorsement. Instead, we will pay a proportion of such loss; meaning the proportion that the covered direct physical damage bears to the total direct physical damage.

(Section H. of this endorsement provides an example of this procedure.)

However, if the covered direct physical damage alone would have resulted in a requirement to comply with the ordinance or law, then we will pay the full amount of loss otherwise payable under terms of Coverages 1, 2 and/or 3 of this endorsement.

C. We will not pay under Coverage 1, 2, or 3 of this endorsement for:

1. Enforcement of or compliance with any ordinance or law which requires the demolition, repair, replacement, reconstruction, remodeling or remediation of property due to contamination by "pollutants" or due to the presence, growth, proliferation, spread of any activity of "fungi", wet rot or dry rot; or
2. The costs associated with the enforcement of or compliance any ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants", "fungi", wet rot or dry rot.

D. Coverage

1. Coverage 1 - Coverage For Loss To The Undamaged Portion Of The Building

With respect to the building that has sustained covered direct physical damage, we will pay under Coverage 1 for the loss in value of the undamaged portion of the building as a consequence of a requirement to comply with an ordinance or law that requires demolition of undamaged parts of the same building. Coverage 1 is included within the Limit Of Insurance shown in the Declarations as applicable to the covered building. Coverage 1 does not increase the Limit of Insurance.

2. Coverage 2 - Demolition Cost Coverage

With respect to the building that has sustained covered direct physical damage, we will pay the cost to demolish and clear the site of undamaged parts of the same building, as a consequence of a requirement to comply with an ordinance or law that requires demolition of such undamaged property.

Paragraph E.5.d. Loss Payment Property Loss Condition does not apply to Demolition Cost Coverage.

3. Coverage 3 - Increased Cost Of Construction Coverage

With respect to the building that has sustained covered direct physical damage, we will pay the increased cost to:

- a. Repair or reconstruct damaged portions of that building; and/or
- b. Reconstruct or remodel undamaged portions of that building, whether or not demolition is required;

when the increased cost is a consequence of a requirement to comply with the minimum standards of the ordinance or law.

However:

- a. This coverage applies only if the restored or remodeled property is intended for similar occupancy as the current property, unless such occupancy is not permitted by zoning or land use ordinance or law.
- b. We will not pay for the increased cost of construction if the building is not repaired, reconstructed or remodeled.

Paragraph E.5.d. Loss Payment Property Loss Condition does not apply to the Increased Cost Of Construction Coverage.

E. Loss Payment

1. All following loss payment Provisions E.2. through E.5. are subject to the apportionment procedure set forth in Section B.3. of this endorsement:
2. When there is a loss in value of an undamaged portion of a building to which Coverage 1 applies, the loss payment for that building, including damaged and undamaged portions, will be determined as follows:
 - a. If the property is repaired or replaced on the same or another premises, we will not pay more than the lesser of:
 - (1) The amount you actually spend to repair, rebuild or reconstruct the building, but not for more than the amount it would cost to restore the building on the same premises and to the same height, floor area, style and comparable quality of the original property insured; or
 - (2) The Limit Of Insurance shown in the Declarations as applicable to the covered building.

b. If the property is not repaired or replaced, we will not pay more than the lesser of:

- (1) The actual cash value of the building at the time of loss; or**
- (2) The Limit Of Insurance shown in the Declarations as applicable to the covered building.**

3. Unless Paragraph E.5. applies, loss payment under Coverage 2 - Demolition Cost Coverage will be determined as follows:

We will not pay more than the lesser of the following:

- a. The amount you actually spend to demolish and clear the site of the described premises; or**
- b. The applicable Limit Of Insurance shown for Coverage 2 in the Schedule above.**

4. Unless Paragraph E.5. applies, loss payment under Coverage 3 - Increased Cost Of Construction Coverage will be determined as follows:

a. We will not pay under Coverage 3:

- (1) Until the property is actually repaired or replaced, at the same or another premises; and**
- (2) Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage, not to exceed two years. We may extend this period in writing during the two years.**

b. If the building is repaired or replaced at the same premises, or if you elect to rebuild at another premises, the most we will pay under Coverage 3 is the lesser of:

- (1) The increased cost of construction at the same premises; or**
- (2) The applicable Limit Of Insurance shown for Coverage 3 in the Schedule above.**

c. If the ordinance or law requires relocation to another premises, the most we will pay under Coverage 3 is the lesser of:

- (1) The increased cost of construction at the new premises; or**
- (2) The applicable Limit Of Insurance shown for Coverage 3 in the Schedule above.**

5. If a Combined Limit Of Insurance is shown for Coverages 2 and 3 in the Schedule above, Paragraphs E.2. and E.3. of this endorsement do not apply with respect to the building property that is subject to the Combined Limit, and the following loss payment provisions apply instead:

The most we will pay, for the total of all covered losses for Demolition Cost and Increased Cost Of Construction, is the Combined Limit Of Insurance shown for Coverages 2 and 3 in the Schedule above. Subject to this Combined Limit of Insurance, the following loss payment provisions apply:

a. For Demolition Cost, we will not pay more than the amount you actually spend to demolish and clear the site of the described premises.

b. With respect to the Increased Cost Of Construction:

(1) We will not pay for the increased cost of construction:

(a) Until the property is actually repaired or replaced, at the same or another premises; and

(b) Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage, not to exceed two years. We may extend this period in writing during the two years.

(2) If the building is repaired or replaced at the same premises, or if you elect to rebuild at another premises, the most we will pay for the increased cost of construction is the increased cost of construction at the same premises.

(3) If the ordinance or law requires relocation to another premises, the most we will pay for the increased cost of construction is the increased cost of construction at the new premises.

F. The terms of this endorsement apply separately to each building to which this endorsement applies.

G. Under this endorsement, we will not pay for loss due to any ordinance or law that:

1. You were required to comply with before the loss, even if the building was undamaged; and

2. You failed to comply with.

H. Example of Proportionate Loss Payment for Ordinance or Law Coverage Losses (procedure as set forth in Section B.3. of this endorsement).

Assume:

- * Wind is a Covered Cause of Loss. Flood is an excluded Cause of Loss;
- * The building has a value of \$200,000;
- * Total direct physical damage to building: \$100,000;
- * The ordinance or law in this jurisdiction is enforced when building damage equals or exceeds 50% of the building's value;
- * Portion of direct physical damage that is covered (caused by wind): \$30,000;
- * Portion of direct physical damage that is not covered (caused by flood): \$70,000; and
- * Loss under Ordinance or Law Coverage 3 of this endorsement: \$60,000.

Step 1: Determine the proportion that the covered direct physical damage bears to the total direct physical damage.

$\$30,000 \text{ divided by } \$100,000 = .30$

Step 2: Apply that proportion to the Ordinance or Law loss.

$\$60,000 \times .30 = \$18,000$

In this example, the most we will pay under this endorsement for the Coverage 3 loss is \$18,000, subject to the applicable Limit of Insurance and any other applicable provisions.

NOTE: The same procedure applies to losses under Coverages 1 and 2 of this endorsement.

I. If shown as applicable in the Schedule of this endorsement, the following applies:

Business Income And Extra Expense Optional Coverage

1. If a Covered Cause of Loss occurs to property at the premises described in the Declarations, coverage is extended to include the amount of actual and necessary loss you sustain during the increased period of suspension of your "operations" caused by or resulting from a requirement to comply with any ordinance or law that:

- a. Regulates the construction or repair of any property;

- b. Requires the tearing down of parts of any property not damaged by a Covered Cause of Loss; and

- c. Is in force at the time of loss.

However, coverage is not extended under this endorsement to include loss caused by or resulting from the enforcement of or compliance with any ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

2. Paragraph H.9. Period Of Restoration Definition is replaced by the following:

9. "Period of restoration" means the period of time that:

a. Begins:

- (1) 72 hours after the time of direct physical loss or damage caused by or resulting from any Covered Cause of Loss at the described premises, unless a lesser number of hours is shown in the Schedule of this endorsement; or

- (2) Immediately after the time of the direct physical loss or damage for Extra Expense Coverage caused by or resulting from any Covered Cause of Loss at the described premises; and

b. Ends on the earlier of:

- (1) The date when the property at the described premises should be repaired, rebuilt or replaced with reasonable speed and similar quality; or

- (2) The date when business is resumed at a new permanent location.

"Period of restoration" includes any increased period required to repair or reconstruct the property to comply with the minimum standards of any ordinance or law, in force at the time of loss, that regulates the construction or repair, or requires the tearing down of any property.

The expiration date of this policy will not cut short the "period of restoration".

POLICY NUMBER: WOP5350

**BUSINESSOWNERS
BP 04 46 SC 05 16****THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****ORDINANCE OR LAW COVERAGE SCHEDULE**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Premises Number	Building Number	Coverage 1 (Check if applies)	Coverage 2 Limit Of Insurance	Coverage 3 Limit Of Insurance	Coverages 2 And 3 Combined Limit Of Insurance
1	1	X			\$25,000

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WATER BACK-UP AND SUMP OVERFLOW

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Premises Number	Covered Property Annual Aggregate Limit Of Insurance	Business Income And Extra Expense Annual Aggregate Limit Of Insurance
	See Schedule BP 04 53 SC	
Information required to complete this Schedule, if not shown above, will be shown on Declarations.		

A. We will pay for direct physical loss or damage to Covered Property, covered under Section I - Property, caused by or resulting from:

- 1. Water or waterborne material which backs up through or overflows or is otherwise discharged from a sewer or drain; or**
- 2. Water or waterborne material which overflows or is otherwise discharged from a sump, sump pump or related equipment, even if the overflow or discharge results from mechanical breakdown of a sump pump or its related equipment.**

However, with respect to Paragraph A.2., we will not pay the cost of repairing or replacing a sump pump or its related equipment in the event of mechanical breakdown.

B. The coverage described in Paragraph A. of this endorsement does not apply to loss or damage resulting from:

- 1. An insured's failure to keep a sump pump or its related equipment in proper working condition;**
- 2. An insured's failure to perform the routine maintenance or repair necessary to keep a sewer or drain free from obstructions; or**
- 3. Sump pump failure which is caused by or results from failure of power, unless this policy**

is endorsed to cover power failure affecting the described premises.

C. The most we will pay for the coverage provided under this endorsement for all direct physical loss or damage to Covered Property is the Covered Property Annual Aggregate Limit of Insurance. That limit is \$5,000 per location, unless a different Covered Property Annual Aggregate Limit of Insurance is indicated in the Schedule of this endorsement.

The applicable Covered Property Annual Aggregate Limit of Insurance is the most we will pay under this endorsement for the total of all direct physical loss or damage sustained in any one policy year, regardless of the number of occurrences that cause or result in loss or damage to Covered Property. If loss payment for the first such occurrence does not exhaust the applicable Limit Of Insurance, then the balance of that Limit is available for subsequent loss or damage sustained in, but not after, that policy year. With respect to an occurrence which begins in one policy year and continues or results in additional loss or damage in a subsequent policy year(s), all loss or damage is deemed to be sustained in the policy year in which the occurrence began.

D. The following provisions apply to Section I - Property and supersede any provisions to the contrary:

The most we will pay under:

1. Paragraph A.5.f. Business Income Additional Coverage for all loss of Business Income you sustain due to the necessary suspension of your "operations" caused by direct physical loss or damage to Covered Property as described in Paragraph A. of this endorsement; and
2. Paragraph A.5.g. Extra Expense Additional Coverage for all necessary Extra Expense you incur and that you would not have incurred if there had been no direct physical loss or damage to Covered Property as described in Paragraph A. of this endorsement;

is the Business Income And Extra Expense Annual Aggregate Limit Of Insurance. That limit is \$5,000 per location, unless a different Business Income And Extra Expense Annual Aggregate Limit Of Insurance is shown in the Schedule.

The applicable Business Income And Extra Expense Annual Aggregate Limit of Insurance is the most we will pay under this endorsement for the total of all loss of Business Income you sustain and Extra Expense you incur in any one policy year, regardless of the number of occurrences that cause or result in loss or damage to Covered Property as described in Paragraph A. of this endorsement. If loss payment during an earlier "period of restoration" in the policy year does not exhaust the applicable Limit Of Insurance, then the balance of that limit is available for loss of Business Income you sustain or Extra Expense you incur during a subsequent "period of restoration" beginning in, but not after, that policy year. With respect to a "period of restoration" which begins in one policy year and continues in a subsequent policy year(s), all loss of Business Income you sustain or Extra Expense you incur is deemed to be sustained or incurred in the policy year in which the "period of restoration" began.

- E. With respect to the coverage provided under this endorsement, the Water Exclusion in Section 1 - Property is replaced by the following:

Water

1. Flood, surface water, waves (including tidal wave and tsunami), tides, tidal water, overflow of any body of water, or spray from any of these, all whether or not driven by wind (including storm surge);
2. Mudslide or mudflow;
3. Water under the ground surface pressing on, or flowing or seeping through:
 - a. Foundations, walls, floors or paved surfaces;
 - b. Basements, whether paved or not; or
 - c. Doors, windows or other openings; or
4. Waterborne material carried or otherwise moved by any of the water referred to in Paragraph 1. or 3., or material carried or otherwise moved by mudslide or mudflow.

This exclusion applies regardless of whether any of the above, in Paragraphs 1. through 4., is caused by an act of nature or is otherwise caused. An example of a situation to which this exclusion applies is the situation where a dam, levee, seawall or other boundary or containment system fails in whole or in part, for any reason, to contain the water.

But if any of the above, in Paragraphs 1. through 4., results in fire, explosion or sprinkler leakage, we will pay for the loss or damage caused by that fire, explosion or sprinkler leakage.

- F. For the purposes of this endorsement, the term drain includes a roof drain and related fixtures.

POLICY NUMBER: WOP5350

**BUSINESSOWNERS
BP 04 53 SC 01 14****THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****WATER BACK-UP AND SUMP OVERFLOW SCHEDULE**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM**SCHEDULE**

Premises Number	Covered Property Annual Aggregate Limit Of Insurance	Business Income And Extra Expense Annual Aggregate Limit Of Insurance
1	\$10,000	\$5,000

POLICY NUMBER: WOP5350

BUSINESSOWNERS**BP 04 56 07 13****THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****UTILITY SERVICES - DIRECT DAMAGE**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM**SCHEDULE**

Premises Number	Building Number	Utility Services Limit Of Insurance	Water Supply Property ("X" If Applies)	Communication Supply Property	Power Supply Property
				Overhead Transmission Lines Enter Either "Included" Or "Not Included" (If Applicable)	
		See Schedule BP 04 56 SC			
Covered Property:					
Covered Property:					
Covered Property:					
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.					

The coverage provided by this endorsement is subject to the provisions of Section I - Property, including Paragraph D. Deductibles, except as provided below.

A. The following is added to Paragraph A. Coverage:

We will pay for loss of or damage to Covered Property described in the Schedule, caused by the interruption of service to the described premises. The interruption must result from direct physical loss or damage by a Covered Cause of Loss to the property described in Paragraph C. of this endorsement if such property is indicated by an "X" in the Schedule.

B. Exception

Coverage under this endorsement for loss or damage to Covered Property does not apply to loss or damage to "electronic data", including destruction or corruption of "electronic data".

C. Utility Services

1. Water Supply Property, meaning the following types of property supplying water to the described premises:

- a. Pumping stations; and
- b. Water mains.

2. Communication Supply Property, meaning property supplying communication services, including telephone, radio, microwave or television services to the described premises, such as:

- a. Communication transmission lines, including optic fiber transmission lines;**
- b. Coaxial cables; and**
- c. Microwave radio relays except satellites.**

It does not include overhead transmission lines unless indicated in the Schedule.

3. Power Supply Services, meaning the following types of property supplying electricity, steam or gas to the described premises:

- a. Utility generating plants;**
- b. Switching stations;**
- c. Substations;**
- d. Transformers; and**
- e. Transmission lines.**

It does not include overhead transmission lines unless indicated in the Schedule.

D. As used in this endorsement, the term transmission lines includes all lines which serve to transmit communication service or power, including lines which may be identified as distribution lines.

E. Paragraph C. Limits Of Insurance is replaced by the following:

C. Limits Of Insurance

If a Utility Services Limit Of Insurance is shown in the Schedule, such limit is part of, not in addition to, the Limit Of Insurance stated in the Declarations as applicable to the Covered Property.

If no Limit Of Insurance is shown for Utility Services, coverage under this endorsement is subject to the applicable Limit Of Insurance on the Covered Property as shown in the Declarations. But this Utility Services Endorsement does not increase the applicable Limit Of Insurance.

POLICY NUMBER: WOP5350

**BUSINESSOWNERS
BP 04 56 SC 05 16****THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****UTILITY SERVICES - DIRECT DAMAGE SCHEDULE**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM**SCHEDULE**

Premises Number	Building Number	Utility Services Limit Of Insurance	Water Supply Property ("X" If Applies)	Communication Supply Property	Power Supply Property
				Overhead Transmission Lines Enter Either "Included" Or "Not Included" (If Applicable)	
1	1	See Covered Property Below	X	Not Included	Not Included
Covered Property: 609 2ND ST, KENYON, MN 55946 BUILDING LIMIT - \$10,000 BUSINESS PERSONAL PROPERTY LIMIT - See applicable limit on Declarations					

POLICY NUMBER: WOP5350

BUSINESSOWNERS**BP 04 57 07 13****THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****UTILITY SERVICES - TIME ELEMENT**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM**SCHEDULE**

Premises Number	Building Number	Utility Services Limit Of Insurance	Water Supply Property ("X" If Applies)	Wastewater Removal Property	Communication Supply Property	Power Supply Property
					Overhead Transmission Lines Enter Either "Included" Or "Not Included" (If Applicable)	
		See Schedule BP 04 57 SC				

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The coverage provided by this endorsement is subject to the provisions of Section I - Property, except as provided below.

A. The following is added to Paragraph A. Coverage:

We will pay for loss of Business Income or Extra Expense at the described premises caused by the interruption of service to the described premises. The interruption must result from direct physical loss or damage by a Covered Cause of Loss to the property described in Paragraph C. of this endorsement if such property is indicated by an "X" in the Schedule.

B. Exception

Coverage under this endorsement does not apply to Business Income loss or Extra Expense related to interruption in utility service which causes loss or damage to "electronic data", including destruction or corruption of "electronic data".

C. Utility Services

1. Water Supply Property, meaning the following types of property supplying water to the described premises:

- a. Pumping stations; and
- b. Water mains.

2. Wastewater Removal Property, meaning a utility system for removing wastewater and

sewage from the described premises, other than a system designed primarily for draining storm water. The utility property includes sewer mains, pumping stations and similar equipment for moving the effluent to a holding, treatment or disposal facility, and includes such facilities.

Coverage under this endorsement does not apply to interruption in service caused by or resulting from a discharge of water or sewage due to heavy rainfall or flooding.

3. Communication Supply Property, meaning property supplying communication services, including telephone, radio, microwave or television services to the described premises, such as:

- a. Communication transmission lines, including optic fiber transmission lines;
- b. Coaxial cables; and
- c. Microwave radio relays except satellites.

It does not include overhead transmission lines unless indicated in the Schedule.

4. Power Supply Property, meaning the following types of property supplying electricity, steam or gas to the described premises:

- a. Utility generating plants;

- b. Switching stations;**
- c. Substations;**
- d. Transformers; and**
- e. Transmission lines.**

It does not include overhead transmission lines unless indicated in the Schedule.

- D. As used in this endorsement, the term transmission lines includes all lines which serve to transmit communication service or power, including lines which may be identified as distribution lines.**

- E. Paragraph C. Limits Of Insurance is replaced by the following:**

C. Limits Of Insurance

The most we will pay for loss or damage in any one occurrence is the Limit Of Insurance shown in the Schedule as applicable to the Covered Property.

POLICY NUMBER: WOP5350

**BUSINESSOWNERS
BP 04 57 SC 05 16****THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****UTILITY SERVICES - TIME ELEMENT SCHEDULE**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM**SCHEDULE**

Premises Number	Building Number	Utility Services Limit Of Insurance	Water Supply Property ("X" If Applies)	Wastewater Removal Property	Communication Supply Property	Power Supply Property
					Overhead Transmission Lines Enter Either "Included" Or "Not Included" (If Applicable)	
1	1	\$10,000	X	X	Not Included	Not Included

POLICY NUMBER: WOP5350

BUSINESSOWNERS**BP 05 15 01 15**

THIS ENDORSEMENT IS ATTACHED TO AND MADE PART OF YOUR POLICY IN RESPONSE TO THE DISCLOSURE REQUIREMENTS OF THE TERRORISM RISK INSURANCE ACT. THIS ENDORSEMENT DOES NOT GRANT ANY COVERAGE OR CHANGE THE TERMS AND CONDITIONS OF ANY COVERAGE UNDER THE POLICY.

DISCLOSURE PURSUANT TO TERRORISM RISK INSURANCE ACT

SCHEDULE

SCHEDULE - PART I		
Terrorism Premium (Certified Acts)	\$0	
Additional Information, if any, concerning the terrorism premium:		
SCHEDULE - PART II		
Federal share of terrorism losses	81 %	Year 2019
(Refer to Paragraph B. in this endorsement.)		
Federal share of terrorism losses	80 %	Year 2020
(Refer to Paragraph B. in this endorsement.)		
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.		

A. Disclosure Of Premium

In accordance with the federal Terrorism Risk Insurance Act, we are required to provide you with a notice disclosing the portion of your premium, if any, attributable to coverage for terrorist acts certified under the Terrorism Risk Insurance Act. The portion of your premium attributable to such coverage is shown in the Schedule of this endorsement or in the policy Declarations.

B. Disclosure Of Federal Participation In Payment Of Terrorism Losses

The United States Government, Department of the Treasury, will pay a share of terrorism losses insured under the federal program. The federal share equals a percentage (as shown in Part II of the Schedule of this endorsement or in the policy Declarations) of that portion of the amount of such insured losses that exceeds the applicable insurer retention. However, if aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a calendar year, the Treasury shall not make any payment for any portion of the amount of such losses that exceeds \$100 billion.

C. Cap On Insurer Participation In Payment Of Terrorism Losses

If aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a calendar year and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**COMPUTER FRAUD AND FUNDS TRANSFER FRAUD**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM**SCHEDULE**

Coverage	Limit Of Insurance
Computer Fraud And Funds Transfer Fraud Coverage	\$5,000
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

Section I - Property is amended as follows:

- A.** With respect to the coverage provided by this endorsement, Paragraph A.4. **Limitations** is amended as follows:

Subparagraph a.(4) does not apply.

- B.** The following is added to Paragraph A.5. **Additional Coverages:**

Computer Fraud And Funds Transfer Fraud

- (1) The Computer Fraud And Funds Transfer Fraud Coverage limit shown in the Schedule of this endorsement is the most we will pay for loss of and damage to "money", "securities" and "other property" following and directly related to the use of any computer to fraudulently cause a transfer of that property from inside the described premises, bank or savings institution:

(a) To a person (other than a messenger) outside those premises; or

(b) To a place outside those premises.

- (2) The Computer Fraud And Funds Transfer Fraud Coverage limit shown in the Schedule of this endorsement is the most we will pay for loss of "money" and "securities" resulting directly from a "fraudulent instruction" directing a financial institution to transfer, pay or deliver "money" and "securities" from your "transfer account".

- C.** With respect to the coverage provided by this endorsement, Paragraph B. **Exclusions** is amended as follows:

1. Paragraph 2.g. **False Pretense** does not apply.

2. The following exclusion is added:

We will not pay for loss or damages caused by or resulting from the use or purported use of credit, debit, charge, access, convenience, identification, stored-value or other cards or the information contained on such cards.

- D.** The following exclusion is added to Paragraph under G.2. **Money And Securities Optional Coverages:**

- (4) Or damage to "money" and "securities" following and directly related to the use of any computer to fraudulently cause a transfer of that property from inside the described premises, bank or savings institution:

(a) To a person (other than a messenger) outside those premises; or

(b) To a place outside those premises.

- E.** The following are added to Paragraph H. **Property Definitions:**

15. "Employee"

- a. "Employee" means:

- (1) Any natural person:

(a) While in your service or for 30 days after termination of service;

(b) Who you compensate directly by salary, wages or commissions; and

(c) Who you have the right to direct and control while performing services for you;

(2) Any natural person who is furnished temporarily to you:

(a) To substitute for a permanent "employee", as defined in Paragraph (1), who is on leave; or

(b) To meet seasonal or short-term work load conditions;

while that person is subject to your direction and control and performing services for you, excluding, however, any such person while having care and custody of property outside the premises;

(3) Any natural person who is leased to you under a written agreement between you and a labor leasing firm, to perform duties related to the conduct of your business, but does not mean a temporary employee as defined in Paragraph (2) above;

(4) Any natural person who is:

(a) A trustee, officer, employee, administrator or manager, except an administrator or manager who is an independent contractor, of any "employee benefit plan(s)" insured under this policy; and

(b) Your director or trustee while that person is handling "funds" or "other property" of any "employee benefit plan(s)" insured under this policy;

(5) Any natural person who is a former "employee", director, partner, "member", "manager", representative or trustee retained as a consultant while performing services for you; or

(6) Any natural person who is a guest student or intern pursuing studies or duties, excluding, however, any such person while having care and custody of property outside the premises.

b. "Employee" does not mean:

(1) Any agent, broker, factor, commission merchant, consignee, independent contractor or representative of the same general character; or

(2) Any "manager", director or trustee except while performing acts coming within the scope of the usual duties of an "employee".

16. "Fraudulent instruction" means:

a. An electronic, telegraphic, cable, teletype, telefacsimile or telephone instruction which purports to have been transmitted by you, but which was in fact fraudulently transmitted by someone else without your knowledge or consent;

b. A written instruction (other than those described in Paragraph A.5.k.) issued by you, which was forged or altered by someone other than you without your knowledge or consent or which purports to have been issued by you, but was in fact fraudulently issued without your knowledge or consent; or

c. An electronic, telegraphic, cable, teletype, telefacsimile, telephone or written instruction initially received by you which purports to have been transmitted by an "employee" but which was in fact fraudulently transmitted by someone else without your or the "employee's" knowledge or consent.

17. "Other property" means any tangible property other than "money" and "securities" that has intrinsic value but does not include any property excluded under this policy.

18. "Transfer account" means an account maintained by you at a financial institution from which you can initiate the transfer, payment or delivery of "money" and "securities":

a. By means of electronic, telegraphic, cable, teletype, telefacsimile or telephone instructions communicated directly through an electronic funds transfer system; or

b. By means of written instructions (other than those described in Paragraph A.5.k.) establishing the conditions under which such transfers are to be initiated by such financial institution through an electronic funds transfer system.

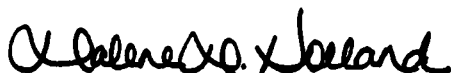
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WADENA INSURANCE COMPANY

AMENDATORY ENDORSEMENT

1. Wadena Insurance Company located at 7825 Mills Civic Parkway, West Des Moines, Iowa, is a stock company domiciled under the laws of the state of Iowa.
2. The following is made a part of the policy:

In Witness Whereof, we have caused this policy to be executed and attested, and, if required by state law, this policy shall not be valid unless countersigned by our authorized representative.



Secretary



President

ML 7000 MN 02 19

**BUSINESSOWNERS
BO 01 25 03 15**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

MINNESOTA CHANGES

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM INFORMATION SECURITY PROTECTION ENDORSEMENT

- A. The following is added to Paragraph E.3. Duties In The Event Of Loss Or Damage Property Loss Conditions in Section I – Property and Paragraph E.2. Duties In The Event Of Occurrence, Offense, Claim Or Suit Liability And Medical Expenses General Conditions in Section II – Liability of the Businessowners Coverage Form and similar conditions in any endorsement attached to this Policy:**

The requirement to notify us can be satisfied by notifying our agent. Notice can be by any means of communication.

- B. Section I – Property is amended as follows:**

- 1. The following is added to Paragraph A.3. Covered Causes Of Loss:**

We insure for all loss or damage caused by fire or any damage caused by lightning.

- 2. Paragraph A.5.I.(8) of the Increased Cost Of Construction Additional Coverages is replaced by the following:**

(8) This Additional Coverage is not subject to the terms of the Ordinance Or Law Exclusion, to the extent that such exclusion would conflict with the provisions of this Additional Coverage. The coverage afforded under this Additional Coverage does not reduce coverage provided under exceptions to the Ordinance Or Law Exclusion as presented in this Endorsement.

- 3. Paragraph A.5.I.(9) of the Increased Cost Of Construction Additional Coverages does not apply.**

- 4. Paragraph B.1.a. Ordinance Or Law Exclusions is replaced by the following:**

a. Ordinance Or Law

(1) The enforcement of or compliance with any ordinance or law:

(a) Regulating the construction, use or repair of any property; or

(b) Requiring the tearing down of any property, including the cost of removing its debris.

- (2) This exclusion, Ordinance Or Law, applies whether the loss results from:**

(a) An ordinance or law that is enforced even if the property has not been damaged; or

(b) The increased costs incurred to comply with an ordinance or law in the course of construction, repair, renovation, remodeling or demolition of property, or removal of its debris, following a physical loss to that property.

- (3) But if loss or damage is solely a result of one or more Covered Causes of Loss, we will pay for your compliance with such ordinance or law, subject to all other provisions of this Policy, including those listed below, as follows:**

(a) In the event of a partial loss, if the building is insured on a replacement cost basis, we will pay for your compliance but only with respect to the damaged portion of the building.

(b) In the event of a total or constructive total loss, we will pay for your compliance with respect to the entire building.

(c) We will not pay under this provision for the costs associated with the enforcement of or compliance with any ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

- (d) Any valuation provision (including Replacement Cost) or loss payment condition which excludes the increased cost attributable to an ordinance or law is hereby revised to include such cost to the extent that coverage is provided above in this item, 4. But in no event will we pay more than the applicable Limit of Insurance.

5. The following is added to Paragraph D.1. **Deductibles** and applies with respect to any deductible applicable to the Businessowners Property Coverage, including a deductible provided by endorsement for a particular cause of loss or coverage:

The Deductible will not apply to total loss of a building.

6. Paragraph E.3. **Duties In The Event Of Loss Or Damage Property Loss Conditions** is amended as follows:

- a. Paragraph a.(3) is deleted.
b. Paragraphs a.(6) and a.(7) are replaced by the following:

(6) As often as we reasonably require:

- (a) Permit us to inspect the property. Also, permit us to take samples of damaged and undamaged property for inspection, testing and analysis;
(b) Provide us with records and documents reasonably related to the loss, or certified copies if the originals are lost, and permit us to make copies.

(7) Send us, within 60 days after our request, a signed, sworn proof of loss containing the following information we require to investigate the claim:

- (a) A description of how and when the loss or damage occurred;
(b) The value of the property, except in the case of a total loss of an insured building;
(c) The interest of the insured and all others in the property; and
(d) Other insurance which may cover the loss or damage.

We will supply you with the necessary forms.

- c. The following is added to Paragraph a.:

(10) Send to us, within a reasonable time after our request, the following:

- (a) Changes in title or occupancy of the property during the term of the Policy; and
(b) Specifications of damaged buildings and detailed repair estimates.

- d. Paragraph b. is replaced by the following:

b. After we inform an insured:

- (1) Of the right to counsel; and
(2) That an insured's answers may be used against the insured in later civil or criminal proceedings;

we may examine any insured under oath, while not in the presence of any other insured and at such times as may be reasonably required, about any matter relating to this insurance or the claim. In the event of an examination, an insured's answers must be signed.

7. Paragraph E.5. **Loss Payment Property Loss Conditions** is amended as follows:

- a. Paragraph g. is replaced by the following:

g. Provided you have complied with all the terms of this Policy, we will pay for covered loss or damage within five business days after:

- (1) We have received the proof of loss; and
(2) We have reached an agreement with you; or, in the event we use an independent claims adjuster, we have received the agreement and you have satisfied the conditions of the agreement, if any, or an appraisal award has been made.

- b. The following paragraph is added and supersedes any provision to the contrary:

i. Replacement Cost – Business Personal Property

(1) We will not pay more for loss or damage on a replacement cost basis than the least of:

- (a) The Limit of Insurance applicable to the lost or damaged property;
(b) The applicable Special Limit of Insurance shown in i.(2)(a), i.(2)(b), i.(2)(c) and i.(2)(d) below;

- (c) The cost to replace, on the same premises, the lost or damaged property with other property of comparable material and quality and used for the same purpose; or
 - (d) The amount you actually spend that is necessary to repair or replace the lost or damaged property.
- (2) The following Special Limits of Insurance apply to any category of property listed below, unless higher Special Limits Of Insurance are shown in the Declarations. These Special Limits are part of, not in addition to, any Limit Of Insurance shown in the Declarations, and apply in excess of any applicable deductible. The Special Limit of Insurance shown for any category listed below is the most we will pay for loss or damage to all property in that category in any one occurrence.
- (a) \$1,000 on used or secondhand merchandise held in storage or for sale;
 - (b) \$1,000 on property of others;
 - (c) \$1,000 on household contents, except personal property in apartments or rooms furnished by you as landlord;
 - (d) \$5,000 on manuscripts, works of art, antiques or rare articles, including etchings, pictures, statuary, marbles, bronzes, porcelains and bric-a-brac.
- With respect to the articles described in (a), (b), (c) and (d) above, in no event will we pay you less than we would have paid you if this Endorsement were not attached to the Policy.
- c. The following paragraph is added:
- j. We agree that, in the event of a total loss, the Limit of Insurance (or the limit shown in the total loss schedule of values) for a building which is Covered Property represents its value.
8. Paragraphs a. and d. under **F.2. Mortgageholders Property General Conditions** are replaced by the following:
- a. The term "mortgageholder" includes trustees and contract-for-deed vendors.
 - d. If we deny your claim because of your acts or because you have failed to comply with the terms of this Policy, the mortgageholder will still have the right to receive loss payment if the mortgageholder:
 - (1) Pays premium due under the Policy at our request if you have failed to do so;
 - (2) Submits a signed, sworn proof of loss within 60 days after receiving notice from us of your failure to do so.

All of the terms of this Policy will then apply directly to the mortgageholder.
9. The following paragraph is added to Paragraph **F.2.:**
- h. We will notify the mortgageholder of changes to this Policy that result in a substantial reduction of coverage to the mortgaged property.
- C. Section II – Liability** is amended as follows:
1. Paragraph **A.1.f. Coverage Extension – Supplementary Payments** is replaced by the following:
- f. Coverage Extension – Supplementary Payments**
- (1) We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:
 - (a) All expenses we incur.
 - (b) Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
 - (c) The cost of bonds to release attachments, but only for bond amounts within the applicable Limit of Insurance. We do not have to furnish these bonds.
 - (d) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work

(e) All costs taxed against the insured in the "suit".

(f) Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable Limit of Insurance, we will not pay any prejudgment interest based on that period of time after the offer.

(g) All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable Limit of Insurance.

These payments will not reduce the Limits of Insurance.

(2) If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

(a) The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";

(b) This insurance applies to such liability assumed by the insured;

(c) The obligation to defend, or the cost of the defense of, that indemnitee has also been assumed by the insured in the same "insured contract";

(d) The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;

(e) The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and

(f) The indemnitee:

(I) Agrees in writing to:

i. Cooperate with us in the investigation, settlement or defense of the "suit";

ii. Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";

iii. Notify any other insurer whose coverage is available to the indemnitee; and

iv. Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and

(II) Provides us with written authorization to:

i. Obtain records and other information related to the "suit"; and

ii. Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

(a) We have used up the applicable Limit of Insurance in the payment of judgments or settlements; or

(b) The conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

2. Paragraph b. under Exclusion B.1. **Applicable To Business Liability Coverage** is replaced by the following:

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

(1) That the insured would have in the absence of the contract or agreement; or

- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement.

3. Paragraph E.1. Bankruptcy Liability And Medical Expenses General Conditions is replaced by the following:

1. Bankruptcy

Bankruptcy, insolvency or dissolution of the insured or of the insured's estate will not relieve us of our obligations under this Policy and in case an execution against the insured on a final judgment is returned unsatisfied, then such judgment creditor shall have a right of action on this Policy against the company to the same extent that the insured would have, had the insured paid the final judgment.

D. Section III – Common Policy Conditions is amended as follows:

1. Paragraph A. Cancellation is replaced by the following:

A. Cancellation

- 1. The first Named Insured shown in the Declarations may cancel this Policy by mailing or delivering to us advance written notice of cancellation.
- 2. We may cancel this Policy, subject to the provisions of 3. below, by first-class mailing, or by delivery, of a written notice of cancellation to the first Named Insured and any agent, to their last mailing addresses known to us. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
- 3. If this Policy has been in effect for:
 - a. Fewer than 90 days and is a new policy, we may cancel for any reason by giving notice at least 10 days before the effective date of cancellation.
 - b. 90 days or more, or if it is a renewal of a policy we issued, we may cancel only for one or more of the following reasons:
 - (1) Nonpayment of premium;

- (2) Misrepresentation or fraud made by you or with your knowledge in obtaining the Policy or in pursuing a claim under the Policy;
- (3) An act or omission by you that substantially increases or changes the risk insured;
- (4) Refusal by you to eliminate known conditions that increase the potential for loss after notification by us that the condition must be removed;
- (5) Substantial change in the risk assumed, except to the extent that we should reasonably have foreseen the change or contemplated the risk in writing the contract;
- (6) Loss of reinsurance by us which provided coverage to us for a significant amount of the underlying risk insured. Any notice of cancellation pursuant to this item shall advise the policyholder that he or she has 10 days from the date of receipt of the notice to appeal the cancellation to the commissioner of commerce and that the commissioner will render a decision as to whether the cancellation is justified because of the loss of reinsurance within 30 business days after receipt of the appeal;
- (7) A determination by the commissioner that the continuation of the Policy could place us in violation of the Minnesota insurance laws; or
- (8) Nonpayment of dues to an association or organization, other than an insurance association or organization, where payment of dues is a prerequisite to obtaining or continuing such insurance. This provision for cancellation for failure to pay dues shall not be applicable to persons who are retired at 62 years of age or older or who are disabled according to social security standards.

Under this Paragraph A.3.b., we will give notice at least:

- (1) 10 days before the effective date of cancellation, if we cancel for nonpayment of premium. The cancellation notice shall contain the information regarding the amount of premium due and the due date, and shall state the effect of nonpayment by the due date. Cancellation shall not be effective if payment of the amount due is made prior to the effective date of cancellation; or
- (2) 60 days before the effective date, if we cancel for a reason described in 3.b.(2) through (8) above. The notice of cancellation will state the reason for cancellation.
4. If this Policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
5. If this Policy includes liquor liability coverage with respect to "injury" arising out of the selling, serving or furnishing of alcoholic beverages, then the following provisions shall apply:

If this Policy is cancelled by us, we will notify, in writing, the governmental authority in the State of Minnesota that issued the current liquor license to the Named Insured that the Policy is being cancelled at the same time that the cancellation notice is sent to the first Named Insured.

If the first Named Insured cancels, we will notify, in writing, the governmental authority in the State of Minnesota that issued the current liquor license to the Named Insured that the Policy is being cancelled upon receiving the written notice of cancellation from the first Named Insured.
6. Unless otherwise specifically required, proof of mailing of any notice shall be sufficient proof of notice.

2. Paragraph C. Concealment, Misrepresentation Or Fraud is replaced by the following with respect to loss or damage caused by fire:

C. Concealment, Misrepresentation Or Fraud

We do not provide coverage to the insured who has:

1. Before a loss, willfully; or
2. After a loss, willfully and with intent to defraud;

concealed or misrepresented any material fact or circumstances concerning:

- a. This Policy;
- b. The Covered Property;
- c. That insured's interest in the Covered Property; or
- d. A claim under this Policy.

3. Paragraph C. Concealment, Misrepresentation Or Fraud is replaced by the following with respect to loss or damage caused by a Covered Cause of Loss other than fire:

C. Concealment, Misrepresentation Or Fraud

We will not pay for any loss or damage if any insured has:

1. Before a loss, willfully; or
2. After a loss, willfully and with intent to defraud;

concealed or misrepresented any material fact or circumstances concerning:

- a. This Policy;
- b. The Covered Property;
- c. That insured's interest in the Covered Property; or
- d. A claim under this Policy.

4. Paragraph D. Examination Of Your Books And Records is replaced by the following:

D. Examination Of Your Books And Records

We may examine and audit your books and records as they relate to this Policy at any time during the policy period and up to one year afterward.

5. Paragraph K. Transfer Of Rights Of Recovery Against Others To Us is replaced by the following:

K. Transfer Of Rights Of Recovery Against Others To Us

1. Applicable to Businessowners Property Coverage:

If any person or organization to or for whom we make payment under this Policy has rights to recover damages from another, those rights are transferred to us to the extent of our payment. That person or organization must do everything necessary to secure our rights and must do nothing after loss to impair them. However, our rights do not apply against:

- a. An insured; or
- b. Any person or organization insured under another policy which was issued by us and responds to the same loss;

provided the loss was not intentionally caused by such insureds.

2. You may waive your rights against another party in writing:

- a. Prior to a loss to your Covered Property.
- b. After a loss to your Covered Property only if, at the time of loss, that party is one of the following:

(1) Someone insured by this insurance, unless the loss was caused intentionally by such insured;

(2) A business firm:

- (a) Owned or controlled by you; or
- (b) That owns or controls you; or

(3) Your tenant.

You may also accept the usual bills of lading or shipping receipts limiting the liability of carriers.

This will not restrict your insurance.

3. Applicable to Businessowners Liability Coverage:

If the insured has rights to recover all or part of any payment we have made under this Policy, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

Our rights do not apply against any person or organization insured under this or any other policy we issue with respect to the same "occurrence", provided the "occurrence" was not intentionally caused by such insureds.

6. The following is added:

M. Nonrenewal

If we decide not to renew this Policy, we may do so by giving the first Named Insured and any agent written notice of our intent not to renew at least 60 days before the expiration date of this Policy. Such notice will be delivered or mailed by first-class mail to their last mailing addresses known to us.

We need not mail or deliver this notice if you have:

- 1. Insured elsewhere;
- 2. Accepted replacement coverage; or
- 3. Agreed not to renew this Policy.

Unless otherwise specifically required, proof of mailing of any notice shall be sufficient proof of notice.

E. The following changes apply only to Information Security Protection Endorsement BP 15 07 if it is attached to this Policy:

1. Paragraph (2) of Insuring Agreement d. Security Breach Liability is replaced by the following:

(2) We will pay for "defense expenses" as a result of a "claim" in the form of a "regulatory proceeding" first made against the insured during the "policy period" or during the applicable Extended Reporting Period, in response to a "wrongful act" or a series of "interrelated wrongful acts" covered under Paragraph d.(1).

2. The following is added to the Limits Of Insurance Provision under Paragraph K.:

In addition to the Information Security Protection Aggregate Limit of Insurance, we will pay prejudgment interest awarded against the insured on the part of the judgment we pay. If we make an offer to pay the Information Security Protection Aggregate Limit of Insurance, we will not pay any prejudgment interest based on that period of time after the offer.

3. The Duties In The Event Of Claim Or Loss Condition under Paragraph M. is replaced by the following:

Duties In The Event Of Claim Or Loss

In the event of either an occurrence or offense that may result in a "claim" against an insured or a "loss" or situation that may result in a "loss" covered under this Endorsement, you must see to it that we or our agent is notified orally or in writing as soon as practicable, but not to exceed 30 days, and cooperate with us in the investigation and settlement of the "claim" or "loss" as set forth below:

a. For "claims" covered under Insuring Agreements d. Security Breach Liability and g. Web Site Publishing Liability, you must:

- (1) Immediately record the specifics of the "claim" and the date received;
- (2) Immediately send us or our agent copies of any demands, notices, summonses or legal papers received in connection with the "claim";
- (3) Authorize us to obtain records and other information; and

(4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to you because of an occurrence or offense to which this Endorsement may also apply.

You will not, except at your own cost, voluntarily make a payment, assume any obligation or incur any expense without our consent.

A "claim" brought by a person or organization seeking damages will be deemed to have been made when the "claim" is received by an insured.

b. Under Insuring Agreement a. Replacement Or Restoration Of Electronic Data and Insuring Agreement e. Extortion Threats, you must:

- (1) Notify local law enforcement officials;
- (2) Submit to examination under oath at our request and give us a signed statement of your answers; and
- (3) Give us a detailed, sworn proof of loss within 120 days.
- (4) In addition, under Insuring Agreement e. Extortion Threats, you must:
 - (a) Determine that the "extortion threat" has actually occurred;
 - (b) Make every reasonable effort to immediately notify an associate and the security firm, if any, before making any "ransom payment" based upon the "extortion threat";
 - (c) With respect to "ransomware", make a reasonable effort to access your "electronic data" from backup; and
 - (d) Approve any "ransom payment" based upon the "extortion threat".

4. Paragraph d. of the definition of "loss" in Paragraph V. is replaced by the following:

d. With respect to Insuring Agreements d. Security Breach Liability and g. Web Site Publishing Liability:

Compensatory damages, settlement amounts and costs awarded pursuant to judgments or settlements. "Loss" does not include:

- (1) Civil or criminal fines or penalties imposed by law;

- (2) Punitive or exemplary damages;**
- (3) The multiplied portion of multiplied damages;**
- (4) Taxes;**

- (5) Royalties;**
- (6) The amount of any disgorged profits;
or**
- (7) Matters that are uninsurable pursuant
to law.**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - ASBESTOS OR ASBESTOS PRODUCTS

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

**A. The following exclusion is added to Paragraph B.
Exclusions in Section II - Liability:**

B. Exclusions

This insurance does not apply to:

ASBESTOS OR ASBESTOS PRODUCTS

1. "Bodily injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, or ingestion of, asbestos, asbestos fibers, asbestos dust or any product containing asbestos.
2. "Property damage" arising, in whole or in part, out of the actual, alleged, threatened or suspected contact with, exposure to, existence of, or presence of, asbestos, asbestos fibers, asbestos dust or any product containing asbestos.

3. "Personal and advertising injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, asbestos, asbestos fibers, asbestos dust or any product containing asbestos.

4. Any loss, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to or assessing the effects of, asbestos, asbestos fibers, asbestos dust, or any product that contains asbestos, by any insured or by any other person or entity.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LEAD LIABILITY EXCLUSION

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

The following exclusion is added to Paragraph B.1.
Exclusions - Applicable to Business Liability Coverage
in **Section II - Liability**:

This insurance does not apply to:

t. Lead Liability

- (1) Actual or alleged "bodily injury" arising out of the ingestion, inhalation, or absorption of lead in any form;**
- (2) Actual or alleged "property damage" or "personal and advertising injury" arising out of any form of lead;**

- (3) Any loss, cost or expense arising out of any request, demand or order to test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, or in any way respond to or assess the effects of lead; or**

- (4) Any loss, cost or expense arising from any claim or "suit" by or on behalf of any governmental authority for damages resulting from the testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to or assessing the effects of lead.**

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - PUNITIVE DAMAGES

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

The following is added to **Section II - Liability B. Exclusions** and supersedes any provision to the contrary:

This insurance does not apply to punitive or exemplary damages.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**IDENTITY RECOVERY COVERAGE
IDENTITY THEFT CASE MANAGEMENT SERVICE AND EXPENSE REIMBURSEMENT**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

The following is added as an Additional Coverage under Section 1 - Property.

IDENTITY RECOVERY COVERAGE

We will provide the Case Management Service and Expense Reimbursement Coverage indicated below if all of the following requirements are met:

1. There has been an "identity theft" involving the personal identity of an "identity recovery insured" under this policy; and
2. Such "identity theft" is first discovered by the "identity recovery insured" during the policy period for which this Identity Recovery Coverage is applicable; and
3. Such "identity theft" is reported to us within 60 days after it is first discovered by the "identity recovery insured."

If all three of the requirements listed above have been met, then we will provide the following to the "identity recovery insured":

1. Case Management Service

Services of an "identity recovery case manager" as needed to respond to the "identity theft"; and

2. Expense Reimbursement

Reimbursement of necessary and reasonable "identity recovery expenses" incurred as a direct result of the "identity theft."

This coverage is additional insurance.

EXCLUSIONS

The following additional exclusions apply to this coverage:

We do not cover loss or expense arising from any of the following:

1. The theft of a professional or business identity.

2. Any fraudulent, dishonest or criminal act by an "identity recovery insured" or any person aiding or abetting an "identity recovery insured", or by any authorized representative of an "identity recovery insured", whether acting alone or in collusion with others. However, this exclusion shall not apply to the interests of an "identity recovery insured" who has no knowledge of or involvement in such fraud, dishonesty or criminal act.

3. An "identity theft" that is not reported in writing to the police.

LIMITS

Case Management Service is available as needed for any one "identity theft" for up to 12 consecutive months from the inception of the service. Expenses we incur to provide Case Management Service do not reduce the amount of limit available for Expense Reimbursement Coverage.

Expense Reimbursement Coverage is subject to a limit of \$15,000 annual aggregate per "identity recovery insured." Regardless of the number of claims, this limit is the most we will pay for the total of all loss or expense arising out of all "identity thefts" to any one "identity recovery insured" which are first discovered by the "identity recovery insured" during a 12-month period starting with the beginning of the present annual policy period. If an "identity theft" is first discovered in one policy period and continues into other policy periods, all loss and expense arising from such "identity theft" will be subject to the aggregate limit applicable to the policy period when the "identity theft" was first discovered.

Legal costs as provided under item d. of the definition of "identity recovery expenses" are part of, and not in addition to, the Expense Reimbursement Coverage limit.

Item e. (Lost Wages) and item f. (Child and Elder Care Expenses) of the definition of "identity recovery expenses" are jointly subject to a sublimit of \$5,000. This sublimit is part of, and not in addition to, the Expense Reimbursement Coverage limit. Coverage is

limited to wages lost and expenses incurred within 12 months after the first discovery of the [identity theft] by the [identity recovery insured].

Item g. (Mental Health Counseling) of the definition of [identity recovery expenses] is subject to a sublimit of \$1,000. This sublimit is part of, and not in addition to, the Expense Reimbursement Coverage limit. Coverage is limited to counseling that takes place within 12 months after the first discovery of the [identity theft] by the [identity recovery insured].

Item h. (Miscellaneous Unnamed Costs) of the definition of [identity recovery expenses] is subject to a sublimit of \$1,000. This sublimit is part of, and not in addition to, the Expenses Reimbursement Coverage limit. Coverage is limited to costs incurred within 12 months after the first discovery of the [identity theft] by the [identity recovery insured].

DEDUCTIBLE

Case Management Service is not subject to a deductible.

Expense Reimbursement Coverage is subject to a deductible of \$100. Any one [identity recovery insured] shall be responsible for only one deductible under this Identity Recovery Coverage during any one policy period.

No other deductible applies to the Identity Recovery Coverage.

CONDITIONS

The following additional conditions apply to this coverage:

A. Help Line

For assistance, the [identity recovery insured] should call the Identity Recovery Help Line at 1-866-221-3470.

The Identity Recovery Help Line can provide the [identity recovery insured] with:

1. Information and advice for how to respond to a possible [identity theft]; and
2. Instructions for how to submit a service request for Case Management Service and/or a claim form for Expense Reimbursement Coverage.

In some cases, we may provide Case Management services at our expense to an [identity recovery insured] prior to a determination that a covered [identity theft] has occurred. Our provision of such services is not an admission of liability under the policy. We reserve the right to deny further coverage or service if, after investigation, we determine that a covered [identity theft] has not occurred.

As respects Expense Reimbursement Coverage, the [identity recovery insured] must send to us, within 60 days after our request, receipts, bills or other records that support his or her claim for "identity recovery expenses."

B. Services

The following conditions apply as respects any services provided by us or our designees to any [identity recovery insured] under this endorsement:

1. Our ability to provide helpful services in the event of an [identity theft] depends on the cooperation, permission and assistance of the [identity recovery insured].
2. All services may not be available or applicable to all individuals. For example, [identity recovery insureds] who are minors or foreign nationals may not have credit records that can be provided or monitored. Service in Canada will be different from service in the United States and Puerto Rico in accordance with local conditions.
3. We do not warrant or guarantee that our services will end or eliminate all problems associated with an [identity theft] or prevent future [identity thefts].

DEFINITIONS

With respect to the provisions of this endorsement only, the following definitions are added:

1. "Identity Recovery Case Manager" means one or more individuals assigned by us to assist an [identity recovery insured] with communications we deem necessary for re-establishing the integrity of the personal identity of the [identity recovery insured]. This includes, with the permission and cooperation of the [identity recovery insured], written and telephone communications with law enforcement authorities, governmental agencies, credit agencies and individual creditors and businesses.

2. "Identity Recovery Expenses" means the following when they are reasonable and necessary expenses that are incurred as a direct result of an identity theft:

- a. Costs for re-filing applications for loans, grants or other credit instruments that are rejected solely as a result of an identity theft.
- b. Costs for notarizing affidavits or other similar documents, long distance telephone calls and postage solely as a result of your efforts to report an identity theft or amend or rectify records as to your true name or identity as a result of an identity theft.
- c. Costs for credit reports from established credit bureaus.
- d. Fees and expenses for an attorney approved by us for the following:

(1) The defense of any civil suit brought against an identity recovery insured.

(2) The removal of any civil judgment wrongfully entered against an identity recovery insured.

(3) Legal assistance for an identity recovery insured at an audit or hearing by a governmental agency.

(4) Legal assistance in challenging the accuracy of the identity recovery insured's consumer credit report.

(5) The defense of any criminal charges brought against an identity recovery insured arising from the actions of a third party using the personal identity of the identity recovery insured.

- e. Actual lost wages of the identity recovery insured for time reasonably and necessarily taken away from work and away from the work premises. Time away from work includes partial or whole work days. Actual lost wages may include payment for vacation days, discretionary days, floating holidays and paid personal days. Actual lost wages does not include sick days or any loss arising from time taken away from self employment. Necessary time off does not include time off to do tasks that could reasonably have been done during non-working hours.

f. Actual costs for supervision of children or elderly or infirm relatives or dependants of the identity recovery insured during time reasonably and necessarily taken away from such supervision. Such care must be provided by a professional care provider who is not a relative of the identity recovery insured.

g. Actual costs for counseling from a licensed mental health professional. Such care must be provided by a professional care provider who is not a relative of the identity recovery insured.

h. Any other reasonable costs necessarily incurred by an identity recovery insured as a direct result of the identity theft.

(1) Such costs include:

(a) Costs by the identity recovery insured to recover control over his or her personal identity.

(b) Deductibles or service fees from financial institutions.

(2) Such costs do not include:

(a) Costs to avoid, prevent or detect identity theft or other loss.

(b) Money lost or stolen.

(c) Costs that are restricted or excluded elsewhere in this endorsement or policy.

3. Identity Recovery Insured means the following:

a. When the entity insured under this policy is a sole proprietorship, the identity recovery insured is the individual person who is the sole proprietor of the insured entity.

b. When the entity insured under this policy is a partnership, the identity recovery insureds are the current partners.

c. When the entity insured under this policy is a corporation or other organization, the identity recovery insureds are all individuals having an ownership position of 20% or more of the insured entity. However, if and only if there is no one who has such an ownership position, then the identity recovery insured shall be:

(1) The chief executive of the insured entity;
or

(2) As respects a religious institution, the senior ministerial employee.

An "identity recovery insured" must always be an individual person. The entity insured under this policy is not an "identity recovery insured."

4. "Identity Theft" means the fraudulent use of the social security number or other method of identifying an "identity recovery insured." This includes fraudulently using the personal identity of an "identity recovery insured" to establish credit accounts, secure loans, enter into contracts or commit crimes.

"Identity theft" does not include the fraudulent use of a business name, d/b/a or any other method of identifying a business activity.

All other provisions of this policy apply.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – UNMANNED AIRCRAFT

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

Section II – Liability is amended as follows:

A. Exclusion 1.g. under Paragraph B. Exclusions is replaced by the following:

This insurance does not apply to:

g. Aircraft, Auto or Watercraft

(1) Unmanned Aircraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft". Use includes operation and "loading or unloading".

This Paragraph g.(1) applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft".

(2) Aircraft (Other Than Unmanned Aircraft), Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft (other than "unmanned aircraft"), "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This Paragraph g.(2) applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft (other than "unmanned aircraft"), "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This Paragraph g.(2) does not apply to:

- (a) A watercraft while ashore on premises you own or rent;
- (b) A watercraft you do not own that is:
 - (i) Less than 51 feet long; and
 - (ii) Not being used to carry persons or property for a charge;
- (c) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (d) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or
- (e) "Bodily injury" or "property damage" arising out of:
 - (i) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or
 - (ii) The operation of any of the following machinery or equipment:
 - i. Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
 - ii. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lightning and well servicing equipment.

B. The following exclusion is added to paragraph 1.p. under Paragraph B. Exclusions:

This insurance does not apply to:

p. Personal And Advertising Injury

"Personal and advertising injury" arising out of the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft". Use includes operations and "loading or unloading".

This exclusion applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the offense which caused the "personal and advertising injury" involved the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft".

This exclusion does not apply to:

- (a) The use of another's advertising idea in your "advertisement"; or
- (b) Infringing upon another's copyright, trade dress or slogan in your "advertisement".

C. The following definition is added to Paragraph F. Liability And Medical Expenses Definitions:

"Unmanned aircraft" means an aircraft that is not:

- a. Designed;
- b. Manufactured; or
- c. Modified after manufacture;

to be controlled directly by a person from within or on the aircraft.

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BUSINESSOWNERS COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this Coverage Form, the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the company providing this insurance.

In Section II – Liability, the word "insured" means any person or organization qualifying as such under Paragraph C. Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Paragraph H. Property Definitions in Section I – Property and Paragraph F. Liability And Medical Expenses Definitions in Section II – Liability.

SECTION I – PROPERTY

A. Coverage

We will pay for direct physical loss of or damage to Covered Property at the premises described in the Declarations caused by or resulting from any Covered Cause of Loss.

1. Covered Property

Covered Property includes Buildings as described under Paragraph a. below, Business Personal Property as described under Paragraph b. below, or both, depending on whether a Limit Of Insurance is shown in the Declarations for that type of property. Regardless of whether coverage is shown in the Declarations for Buildings, Business Personal Property, or both, there is no coverage for property described under Paragraph 2. Property Not Covered.

a. Buildings, meaning the buildings and structures at the premises described in the Declarations, including:

- (1) Completed additions;
- (2) Fixtures, including outdoor fixtures;
- (3) Permanently installed:
 - (a) Machinery; and
 - (b) Equipment;
- (4) Your personal property in apartments, rooms or common areas furnished by you as landlord;

(5) Personal property owned by you that is used to maintain or service the buildings or structures or the premises, including:

- (a) Fire extinguishing equipment;
- (b) Outdoor furniture;
- (c) Floor coverings; and
- (d) Appliances used for refrigerating, ventilating, cooking, dishwashing or laundering;

(6) If not covered by other insurance:

- (a) Additions under construction, alterations and repairs to the buildings or structures;
- (b) Materials, equipment, supplies and temporary structures, on or within 100 feet of the described premises, used for making additions, alterations or repairs to the buildings or structures.

b. Business Personal Property located in or on the buildings or structures at the described premises or in the open (or in a vehicle) within 100 feet of the buildings or structures or within 100 feet of the premises described in the Declarations, whichever distance is greater, including:

- (1) Property you own that is used in your business;
- (2) Property of others that is in your care, custody or control, except as otherwise provided in Loss Payment Property Loss Condition Paragraph E.5.d.(3)(b);
- (3) Tenant's improvements and betterments. Improvements and betterments are fixtures, alterations, installations or additions:
 - (a) Made a part of the building or structure you occupy but do not own; and
 - (b) You acquired or made at your expense but cannot legally remove;
- (4) Leased personal property which you have a contractual responsibility to insure, unless otherwise provided for under Paragraph 1.b.(2); and

- (5) Exterior building glass, if you are a tenant and no Limit Of Insurance is shown in the Declarations for Building property. The glass must be owned by you or in your care, custody or control.

2. Property Not Covered

Covered Property does not include:

- a. Aircraft, automobiles, motortrucks and other vehicles subject to motor vehicle registration;
- b. "Money" or "securities" except as provided in the:
 - (1) Money And Securities Optional Coverage; or
 - (2) Employee Dishonesty Optional Coverage;
- c. Contraband, or property in the course of illegal transportation or trade;
- d. Land (including land on which the property is located), water, growing crops or lawns (other than lawns which are part of a vegetated roof);
- e. Outdoor fences, radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers, signs (other than signs attached to buildings), trees, shrubs or plants (other than trees, shrubs or plants which are part of a vegetated roof), all except as provided in the:
 - (1) Outdoor Property Coverage Extension; or
 - (2) Outdoor Signs Optional Coverage;
- f. Watercraft (including motors, equipment and accessories) while afloat;
- g. Accounts, bills, food stamps, other evidences of debt, accounts receivable or "valuable papers and records"; except as otherwise provided in this policy;
- h. "Computer(s)" which are permanently installed or designed to be permanently installed in any aircraft, watercraft, motortruck or other vehicle subject to motor vehicle registration. This paragraph does not apply to "computer(s)" while held as "stock";

- i. "Electronic data", except as provided under Additional Coverages – Electronic Data. This Paragraph i. does not apply to your "stock" of prepackaged software or to "electronic data" which is integrated in and operates or controls the building's elevator, lighting, heating, ventilation, air conditioning or security system; or

- j. Animals, unless owned by others and boarded by you, or if owned by you, only as "stock" while inside of buildings.

3. Covered Causes Of Loss

Direct physical loss unless the loss is excluded or limited under Section I – Property.

4. Limitations

- a. We will not pay for loss of or damage to:
 - (1) Steam boilers, steam pipes, steam engines or steam turbines caused by or resulting from any condition or event inside such equipment. But we will pay for loss of or damage to such equipment caused by or resulting from an explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.
 - (2) Hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment, other than an explosion.
 - (3) Property that is missing, where the only evidence of the loss or damage is a shortage disclosed on taking inventory, or other instances where there is no physical evidence to show what happened to the property. This limitation does not apply to the Optional Coverage for Money and Securities.
 - (4) Property that has been transferred to a person or to a place outside the described premises on the basis of unauthorized instructions.
 - (5) The interior of any building or structure, or to personal property in the building or structure, caused by or resulting from rain, snow, sleet, ice, sand or dust, whether driven by wind or not, unless:
 - (a) The building or structure first sustains damage by a Covered Cause of Loss to its roof or walls through which the rain, snow, sleet, ice, sand or dust enters; or

- (b) The loss or damage is caused by or results from thawing of snow, sleet or ice on the building or structure.
- (6) Lawns, trees, shrubs or plants which are part of a vegetated roof, caused by or resulting from:
 - (a) Dampness or dryness of atmosphere or of soil supporting the vegetation;
 - (b) Changes in or extremes of temperature;
 - (b) Disease;
 - (d) Frost or hail; or
 - (e) Rain, snow, ice or sleet.
- b. We will not pay for loss of or damage to the following types of property unless caused by the "specified causes of loss" or building glass breakage:
 - (1) Animals, and then only if they are killed or their destruction is made necessary.
 - (2) Fragile articles such as glassware, statuary, marble, chinaware and porcelain, if broken. This restriction does not apply to:
 - (a) Glass that is part of the exterior or interior of a building or structure;
 - (b) Containers of property held for sale; or
 - (c) Photographic or scientific instrument lenses.
- c. For loss or damage by theft, the following types of property are covered only up to the limits shown (unless a higher Limit Of Insurance is shown in the Declarations):
 - (1) \$2,500 for furs, fur garments and garments trimmed with fur.
 - (2) \$2,500 for jewelry, watches, watch movements, jewels, pearls, precious and semiprecious stones, bullion, gold, silver, platinum and other precious alloys or metals. This limit does not apply to jewelry and watches worth \$100 or less per item.
 - (3) \$2,500 for patterns, dies, molds and forms.

5. Additional Coverages

a. Debris Removal

- (1) Subject to Paragraphs (2), (3) and (4), we will pay your expense to remove debris of Covered Property and other debris that is on the described premises, when such debris is caused by or results from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date of direct physical loss or damage.
- (2) Debris Removal does not apply to costs to:
 - (a) Remove debris of property of yours that is not insured under this policy, or property in your possession that is not Covered Property;
 - (b) Remove debris of property owned by or leased to the landlord of the building here our described premises are located, unless you have a contractual responsibility to insure such property and it is insured under this policy;
 - (c) Remove any property that is Property Not Covered, including property addressed under the Outdoor Property Coverage Extension;
 - (d) Remove property of others of a type that would not be Covered Property under this policy;
 - (e) Remove deposits of mud or earth from the grounds of the described premises;
 - (f) Extract "pollutants" from land or water; or
 - (g) Remove, restore or replace polluted land or water.
- (3) Subject to the exceptions in Paragraph (4), the following provisions apply:
 - (a) The most that we will pay for the total of direct physical loss or damage plus debris removal expense is the Limit of Insurance applicable to the Covered Property that has sustained loss or damage.

(b) Subject to Paragraph (3)(a) above, the amount we will pay for debris removal expense is limited to 25% of the sum of the deductible plus the amount that we pay for direct physical loss or damage to the Covered Property that has sustained loss or damage. However, if no Covered Property has sustained direct physical loss or damage, the most we will pay for removal of debris of other property (if such removal is covered under this Additional Coverage) is \$5,000 at each location.

(4) We will pay up to an additional \$25,000 for debris removal expense, for each location, in any one occurrence of physical loss or damage to Covered Property, if one or both of the following circumstances apply:

(a) The total of the actual debris removal expense plus the amount we pay for direct physical loss or damage exceeds the Limit of Insurance on the Covered Property that has sustained loss or damage.

(b) The actual debris removal expense exceeds 25% of the sum of the deductible plus the amount that we pay for direct physical loss or damage to the Covered Property that has sustained loss or damage.

Therefore, if Paragraphs (4)(a) and/or (4)(b) apply, our total payment for direct physical loss or damage and debris removal expense may reach but will never exceed the Limit of Insurance on the Covered Property that has sustained loss or damage, plus \$25,000.

(5) Examples

Example 1

Limit of Insurance	\$ 90,000
Amount of Deductible	\$ 500
Amount of Loss	\$ 50,000
Amount of Loss Payable	\$ 49,500
	(\$50,000 - \$500)
Debris Removal Expense	\$ 10,000
Debris Removal Expense Payable	\$ 10,000
	(\$10,000 is 20% of \$50,000)

The debris removal expense is less than 25% of the sum of the loss payable plus the deductible. The sum of the loss payable and the debris removal expense (\$49,500 + \$10,000 = \$59,500) is less than the Limit of Insurance. Therefore, the full amount of debris removal expense is payable in accordance with the terms of Paragraph (3).

Example 2

Limit of Insurance	\$ 90,000
Amount of Deductible	\$ 500
Amount of Loss	\$ 80,000
Amount of Loss Payable	\$ 79,500
	(\$80,000 - \$500)
Debris Removal Expense	\$ 40,000
Debris Removal Expense Payable	
Basic Amount	\$ 10,500
Additional Amount	\$ 25,000

The basic amount payable for debris removal expense under the terms of Paragraph (3) is calculated as follows: \$80,000 (\$79,500 + \$500) x .25 = \$20,000; capped at \$10,500. The cap applies because the sum of the loss payable (\$79,500) and the basic amount payable for debris removal expense (\$10,500) cannot exceed the Limit of Insurance (\$90,000).

The additional amount payable for debris removal expense is provided in accordance with the terms of Paragraph (4), because the debris removal expense (\$40,000) exceeds 25% of the loss payable plus the deductible (\$40,000 is 50% of \$80,000), and because the sum of the loss payable and debris removal expense (\$79,500 + \$40,000 = \$119,500) would exceed the Limit of Insurance (\$90,000). The additional amount of covered debris removal expense is \$25,000, the maximum payable under Paragraph (4). Thus, the total payable for debris removal in this example is \$35,000; \$4,500 of the debris removal expense is not covered.

b. Preservation Of Property

If it is necessary to move Covered Property from the described premises to preserve it from loss or damage by a Covered Cause of Loss, we will pay for any direct physical loss of or damage to that property:

- (1) While it is being moved or while temporarily stored at another location; and
- (2) Only if the loss or damage occurs within 30 days after the property is first moved.

c. Fire Department Service Charge

When the fire department is called to save or protect Covered Property from a Covered Cause of Loss, we will pay up to \$2,500 for service at each premises described in the Declarations, unless a different limit is shown in the Declarations. Such limit is the most we will pay regardless of the number of responding fire departments or fire units, and regardless of the number or type of services performed.

This Additional Coverage applies to your liability for fire department service charges:

- (1) Assumed by contract or agreement prior to loss; or
- (2) Required by local ordinance.

d. Collapse

The coverage provided under this Additional Coverage – Collapse applies only to an abrupt collapse as described and limited in Paragraphs d.(1) through d.(7).

- (1) For the purpose of this Additional Coverage – Collapse, abrupt collapse means an abrupt falling down or caving in of a building or any part of a building with the result that the building or part of the building cannot be occupied for its intended purpose.
- (2) We will pay for direct physical loss or damage to Covered Property, caused by abrupt collapse of a building or any part of a building that is insured under this policy or that contains Covered Property insured under this policy, if such collapse is caused by one or more of the following:
 - (a) Building decay that is hidden from view, unless the presence of such decay is known to an insured prior to collapse;

- (b) Insect or vermin damage that is hidden from view, unless the presence of such damage is known to an insured prior to collapse;

- (c) Use of defective material or methods in construction, remodeling or renovation if the abrupt collapse occurs during the course of the construction, remodeling or renovation.

- (d) Use of defective material or methods in construction, remodeling or renovation if the abrupt collapse occurs after the construction, remodeling or renovation is complete, but only if the collapse is caused in part by:
 - (i) A cause of loss listed in Paragraph (2)(a) or (2)(b);
 - (ii) One or more of the "specified causes of loss";
 - (iii) Breakage of building glass;
 - (iv) Weight of people or personal property; or
 - (v) Weight of rain that collects on a roof.

- (3) This Additional Coverage – Collapse does not apply to:

- (a) A building or any part of a building that is in danger of falling down or caving in;

- (b) A part of a building that is standing, even if it has separated from another part of the building; or

- (c) A building that is standing or any part of a building that is standing, even if it shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.

- (4) With respect to the following property:

- (a) Awnings;

- (b) Gutters and downspouts;

- (c) Yard fixtures;

- (d) Outdoor swimming pools;

- (e) Piers, wharves and docks;

- (f) Beach or diving platforms or appurtenances;

- (g) Retaining walls; and

- (h) Walks, roadways and other paved surfaces;

if an abrupt collapse is caused by a cause of loss listed in Paragraphs (2)(a) through (2)(d), we will pay for loss or damage to that property only if such loss or damage is a direct result of the abrupt collapse of a building insured under this policy and the property is Covered Property under this policy.

- (5) If personal property abruptly falls down or caves in and such collapse is not the result of abrupt collapse of a building, we will pay for loss or damage to Covered Property caused by such collapse of personal property only if:

- (a) The collapse of personal property was caused by a cause of loss listed in Paragraphs (2)(a) through (2)(d) of this Additional Coverage;
- (b) The personal property which collapses is inside a building; and
- (c) The property which collapses is not of a kind listed in Paragraph (4), regardless of whether that kind of property is considered to be personal property or real property.

The coverage stated in this Paragraph (5) does not apply to personal property if marring and/or scratching is the only damage to that personal property caused by the collapse.

- (6) This Additional Coverage – Collapse does not apply to personal property that has not abruptly fallen down or caved in, even if the personal property shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.
- (7) This Additional Coverage – Collapse will not increase the Limits of Insurance provided in this policy.
- (8) The term Covered Cause of Loss includes the Additional Coverage – Collapse as described and limited in Paragraphs d.(1) through d.(7).

e. Water Damage, Other Liquids, Powder Or Molten Material Damage

If loss or damage caused by or resulting from covered water or other liquid, powder or molten material occurs, we will also pay the cost to tear out and replace any part of the building or structure to repair damage to the system or appliance from which the water or other substance escapes.

We will not pay the cost to repair any defect that caused the loss or damage, but we will pay the cost to repair or replace damaged parts of fire extinguishing equipment if the damage:

- (1) Results in discharge of any substance from an automatic fire protection system; or
- (2) Is directly caused by freezing.

f. Business Income

(1) Business Income

- (a) We will pay for the actual loss of Business Income you sustain due to the necessary suspension of your "operations" during the "period of restoration". The suspension must be caused by direct physical loss of or damage to property at the described premises. The loss or damage must be caused by or result from a Covered Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 100 feet of such premises.

With respect to the requirements set forth in the preceding paragraph, if you occupy only part of a building, your premises mean:

- (i) The portion of the building which you rent, lease or occupy;
- (ii) The area within 100 feet of the building or within 100 feet of the premises described in the Declarations, whichever distance is greater (with respect to loss of or damage to personal property in the open or personal property in a vehicle); and
- (iii) Any area within the building or at the described premises, if that area services, or is used to gain access to, the portion of the building which you rent, lease or occupy.

(b) We will only pay for loss of Business Income that you sustain during the "period of restoration" and that occurs within 12 consecutive months after the date of direct physical loss or damage. We will only pay for ordinary payroll expenses for 60 days following the date of direct physical loss or damage, unless a greater number of days is shown in the Declarations.

(c) Business Income means the:

(i) Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred if no physical loss or damage had occurred, but not including any Net Income that would likely have been earned as a result of an increase in the volume of business due to favorable business conditions caused by the impact of the Covered Cause of Loss on customers or on other businesses; and

(ii) Continuing normal operating expenses incurred, including payroll.

(d) Ordinary payroll expenses:

(i) Means payroll expenses for all your employees except:

- i. Officers;
- ii. Executives;
- iii. Department Managers;
- iv. Employees under contract; and
- v. Additional Exemptions shown in the Declarations as:

- Job Classifications; or
- Employees.

(ii) Include:

- i. Payroll;
- ii. Employee benefits, if directly related to payroll;
- iii. FICA payments you pay;
- iv. Union dues you pay; and
- v. Workers' compensation premiums.

(2) Extended Business Income

(a) If the necessary suspension of your "operations" produces a Business Income loss payable under this policy, we will pay for the actual loss of Business Income you incur during the period that:

(i) Begins on the date property except finished stock is actually repaired, rebuilt or replaced and "operations" are resumed; and

(ii) Ends on the earlier of:

i. The date you could restore your "operations", with reasonable speed, to the level which would generate the Business Income amount that would have existed if no direct physical loss or damage had occurred; or

ii. 60 consecutive days after the date determined in Paragraph (a)(i) above, unless a greater number of consecutive days is shown in the Declarations.

However, Extended Business Income does not apply to loss of Business Income incurred as a result of unfavorable business conditions caused by the impact of the Covered Cause of Loss in the area where the described premises are located.

(b) Loss of Business Income must be caused by direct physical loss or damage at the described premises caused by or resulting from any Covered Cause of Loss.

(3) With respect to the coverage provided in this Additional Coverage, suspension means:

(a) The partial slowdown or complete cessation of your business activities; or

(b) That a part or all of the described premises is rendered untenable, if coverage for Business Income applies.

(4) This Additional Coverage is not subject to the Limits of Insurance of Section I – Property.

g. Extra Expense

- (1) We will pay necessary Extra Expense you incur during the "period of restoration" that you would not have incurred if there had been no direct physical loss or damage to property at the described premises. The loss or damage must be caused by or result from a Covered Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 100 feet of such premises.

With respect to the requirements set forth in the preceding paragraph, if you occupy only part of a building, your premises mean:

- (a) The portion of the building which you rent, lease or occupy;
 - (b) The area within 100 feet of the building or within 100 feet of the premises described in the Declarations, whichever distance is greater (with respect to loss of or damage to personal property in the open or personal property in a vehicle); and
 - (c) Any area within the building or at the described premises, if that area services, or is used to gain access to, the portion of the building which you rent, lease or occupy.
- (2) Extra Expense means expense incurred:
- (a) To avoid or minimize the suspension of business and to continue "operations":
 - (i) At the described premises; or
 - (ii) At replacement premises or at temporary locations, including relocation expenses, and costs to equip and operate the replacement or temporary locations.
 - (b) To minimize the suspension of business if you cannot continue "operations".

(c) To:

- (i) Repair or replace any property; or
- (ii) Research, replace or restore the lost information on damaged "valuable papers and records";

to the extent it reduces the amount of loss that otherwise would have been payable under this Additional Coverage or Additional Coverage f. Business Income.

- (3) With respect to the coverage provided in this Additional Coverage, suspension means:
- (a) The partial slowdown or complete cessation of your business activities; or
 - (b) That a part or all of the described premises is rendered untenable, if coverage for Business Income applies.
- (4) We will only pay for Extra Expense that occurs within 12 consecutive months after the date of direct physical loss or damage. This Additional Coverage is not subject to the Limits of Insurance of Section I – Property.

h. Pollutant Clean-up And Removal

We will pay your expense to extract "pollutants" from land or water at the described premises if the discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused by or results from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date on which the Covered Cause of Loss occurs.

This Additional Coverage does not apply to costs to test for, monitor or assess the existence, concentration or effects of "pollutants". But we will pay for testing which is performed in the course of extracting the "pollutants" from the land or water.

The most we will pay for each location under this Additional Coverage is \$10,000 for the sum of all such expenses arising out of Covered Causes of Loss occurring during each separate 12-month period of this policy.

i. Civil Authority

When a Covered Cause of Loss causes damage to property other than property at the described premises, we will pay for the actual loss of Business Income you sustain and necessary Extra Expense caused by action of civil authority that prohibits access to the described premises, provided that both of the following apply:

- (1) Access to the area immediately surrounding the damaged property is prohibited by civil authority as a result of the damage, and the described premises are within that area but are not more than one mile from the damaged property; and
- (2) The action of civil authority is taken in response to dangerous physical conditions resulting from the damage or continuation of the Covered Cause of Loss that caused the damage, or the action is taken to enable a civil authority to have unimpeded access to the damaged property.

Civil Authority Coverage for Business Income will begin 72 hours after the time of the first action of civil authority that prohibits access to the described premises and will apply for a period of up to four consecutive weeks from the date on which such coverage began.

Civil Authority Coverage for necessary Extra Expense will begin immediately after the time of the first action of civil authority that prohibits access to the described premises and will end:

- (1) Four consecutive weeks after the date of that action; or
- (2) When your Civil Authority Coverage for Business Income ends;

whichever is later.

The definitions of Business Income and Extra Expense contained in the Business Income and Extra Expense Additional Coverages also apply to this Civil Authority Additional Coverage. The Civil Authority Additional Coverage is not subject to the Limits of Insurance of Section I – Property.

j. Money Orders And "Counterfeit Money"

We will pay for loss resulting directly from your having accepted in good faith, in exchange for merchandise, "money" or services:

- (1) Money orders issued by any post office, express company or bank that are not paid upon presentation; or
- (2) "Counterfeit money" that is acquired during the regular course of business.

The most we will pay for any loss under this Additional Coverage is \$1,000.

k. Forgery Or Alteration

- (1) We will pay for loss resulting directly from forgery or alteration of any check, draft, promissory note, bill of exchange or similar written promise of payment in "money" that you or your agent has issued, or that was issued by someone who impersonates you or your agent.
- (2) If you are sued for refusing to pay the check, draft, promissory note, bill of exchange or similar written promise of payment in "money", on the basis that it has been forged or altered, and you have our written consent to defend against the suit, we will pay for any reasonable legal expenses that you incur in that defense.
- (3) For the purpose of this coverage, check includes a substitute check as defined in the Check Clearing for the 21st Century Act and will be treated the same as the original it replaced.
- (4) The most we will pay for any loss, including legal expenses, under this Additional Coverage is \$2,500, unless a higher Limit Of Insurance is shown in the Declarations.

l. Increased Cost Of Construction

- (1) This Additional Coverage applies only to buildings insured on a replacement cost basis.
- (2) In the event of damage by a Covered Cause of Loss to a building that is Covered Property, we will pay the increased costs incurred to comply with the minimum standards of an ordinance or law in the course of repair, rebuilding or replacement of damaged parts of that property, subject to the limitations stated in Paragraphs (3) through (9) of this Additional Coverage.

- (3) The ordinance or law referred to in Paragraph (2) of this Additional Coverage is an ordinance or law that regulates the construction or repair of buildings or establishes zoning or land use requirements at the described premises and is in force at the time of loss.
- (4) Under this Additional Coverage, we will not pay any costs due to an ordinance or law that:
 - (a) You were required to comply with before the loss, even when the building was undamaged; and
 - (b) You failed to comply with.
- (5) Under this Additional Coverage, we will not pay for:
 - (a) The enforcement of or compliance with any ordinance or law which requires demolition, repair, replacement, reconstruction, remodeling or remediation of property due to contamination by "pollutants" or due to the presence, growth, proliferation, spread or any activity of "fungi", wet rot or dry rot; or
 - (b) Any costs associated with the enforcement of or compliance with an ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants", "fungi", wet rot or dry rot.
- (6) The most we will pay under this Additional Coverage, for each described building insured under Section I – Property, is \$10,000. If a damaged building(s) is covered under a blanket Limit of Insurance which applies to more than one building or item of property, then the most we will pay under this Additional Coverage, for each damaged building, is \$10,000.

The amount payable under this Additional Coverage is additional insurance.

- (7) With respect to this Additional Coverage:
 - (a) We will not pay for the Increased Cost of Construction:
 - (i) Until the property is actually repaired or replaced, at the same or another premises; and
 - (ii) Unless the repair or replacement is made as soon as reasonably possible after the loss or damage, not to exceed two years. We may extend this period in writing during the two years.
 - (b) If the building is repaired or replaced at the same premises, or if you elect to rebuild at another premises, the most we will pay for the Increased Cost of Construction is the increased cost of construction at the same premises.
 - (c) If the ordinance or law requires relocation to another premises, the most we will pay for the Increased Cost of Construction is the increased cost of construction at the new premises.
- (8) This Additional Coverage is not subject to the terms of the Ordinance Or Law Exclusion, to the extent that such exclusion would conflict with the provisions of this Additional Coverage.
- (9) The costs addressed in the Loss Payment Property Loss Condition in Section I – Property do not include the increased cost attributable to enforcement of or compliance with an ordinance or law. The amount payable under this Additional Coverage, as stated in Paragraph (6) of this Additional Coverage, is not subject to such limitation.

m. Business Income From Dependent Properties

- (1) We will pay for the actual loss of Business Income you sustain due to physical loss or damage at the premises of a dependent property or secondary dependent property caused by or resulting from any Covered Cause of Loss.

However, this Additional Coverage does not apply when the only loss at the premises of a dependent property or secondary dependent property is loss or damage to "electronic data", including destruction or corruption of "electronic data". If the dependent property or secondary dependent property sustains loss or damage to "electronic data" and other property, coverage under this Additional Coverage will not continue once the other property is repaired, rebuilt or replaced.

The most we will pay under this Additional Coverage is \$5,000 unless a higher Limit Of Insurance is indicated in the Declarations.

- (2) We will reduce the amount of your Business Income loss, other than Extra Expense, to the extent you can resume "operations", in whole or in part, by using any other available:
 - (a) Source of materials; or
 - (b) Outlet for your products.
- (3) If you do not resume "operations", or do not resume "operations" as quickly as possible, we will pay based on the length of time it would have taken to resume "operations" as quickly as possible.
- (4) Dependent property means property owned by others whom you depend on to:
 - (a) Deliver materials or services to you, or to others for your account. But services does not mean water supply services, wastewater removal services, communication supply services or power supply services;
 - (b) Accept your products or services;
 - (c) Manufacture your products for delivery to your customers under contract for sale; or
 - (d) Attract customers to your business.

The dependent property must be located in the coverage territory of this policy.
- (5) Secondary dependent property means an entity which is not owned or operated by a dependent property and which:
 - (a) Delivers materials or services to a dependent property, which in turn are used by the dependent property in providing materials or services to you; or

- (b) Accepts materials or services from a dependent property, which in turn accepts your materials or services.

A road, bridge, tunnel, waterway, airfield, pipeline or any other similar area or structure is not a secondary dependent property.

Any property which delivers any of the following services is not a secondary dependent property with respect to such services:

- (i) Water supply services;
- (ii) Wastewater removal services;
- (iii) Communication supply services;
- or
- (iv) Power supply services.

The secondary dependent property must be located in the coverage territory of this policy.

- (6) The coverage period for Business Income under this Additional Coverage:
 - (a) Begins 72 hours after the time of direct physical loss or damage caused by or resulting from any Covered Cause of Loss at the premises of the dependent property or secondary dependent property; and
 - (b) Ends on the date when the property at the premises of the dependent property or secondary dependent property should be repaired, rebuilt or replaced with reasonable speed and similar quality.
- (7) The Business Income coverage period, as stated in Paragraph (6), does not include any increased period required due to the enforcement of or compliance with any ordinance or law that:
 - (a) Regulates the construction, use or repair, or requires the tearing down of any property; or
 - (b) Requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

The expiration date of this policy will not reduce the Business Income coverage period.

- (8) The definition of Business Income contained in the Business Income Additional Coverage also applies to this Business Income From Dependent Properties Additional Coverage.

n. Glass Expenses

- (1) We will pay for expenses incurred to put up temporary plates or board up openings if repair or replacement of damaged glass is delayed.
- (2) We will pay for expenses incurred to remove or replace obstructions when repairing or replacing glass that is part of a building. This does not include removing or replacing window displays.

o. Fire Extinguisher Systems Recharge Expense

- (1) We will pay:
- (a) The cost of recharging or replacing, whichever is less, your fire extinguishers and fire extinguishing systems (including hydrostatic testing if needed) if they are discharged on or within 100 feet of the described premises; and
- (b) For loss or damage to Covered Property if such loss or damage is the result of an accidental discharge of chemicals from a fire extinguisher or a fire extinguishing system.
- (2) No coverage will apply if the fire extinguishing system is discharged during installation or testing.
- (3) The most we will pay under this Additional Coverage is \$5,000 in any one occurrence.

p. Electronic Data

- (1) Subject to the provisions of this Additional Coverage, we will pay for the cost to replace or restore "electronic data" which has been destroyed or corrupted by a Covered Cause of Loss. To the extent that "electronic data" is not replaced or restored, the loss will be valued at the cost of replacement of the media on which the "electronic data" was stored, with blank media of substantially identical type.

- (2) The Covered Causes of Loss applicable to Business Personal Property include a computer virus, harmful code or similar instruction introduced into or enacted on a computer system (including "electronic data") or a network to which it is connected, designed to damage or destroy any part of the system or disrupt its normal operation. But there is no coverage for loss or damage caused by or resulting from manipulation of a computer system (including "electronic data") by any employee, including a temporary or leased employee, or by an entity retained by you, or for you, to inspect, design, install, modify, maintain, repair or replace that system.

- (3) The most we will pay under this Additional Coverage – Electronic Data for all loss or damage sustained in any one policy year, regardless of the number of occurrences of loss or damage or the number of premises, locations or computer systems involved, is \$10,000, unless a higher Limit Of Insurance is shown in the Declarations. If loss payment on the first occurrence does not exhaust this amount, then the balance is available for subsequent loss or damage sustained in, but not after, that policy year. With respect to an occurrence which begins in one policy year and continues or results in additional loss or damage in a subsequent policy year(s), all loss or damage is deemed to be sustained in the policy year in which the occurrence began.

- (4) This Additional Coverage does not apply to your "stock" of prepackaged software, or to "electronic data" which is integrated in and operates or controls a building's elevator, lighting, heating, ventilation, air conditioning or security system.

q. Interruption Of Computer Operations

- (1) Subject to all provisions of this Additional Coverage, you may extend the insurance that applies to Business Income and Extra Expense to apply to a suspension of "operations" caused by an interruption in computer operations due to destruction or corruption of "electronic data" due to a Covered Cause of Loss

- (2) With respect to the coverage provided under this Additional Coverage, the Covered Causes of Loss are subject to the following:
- (a) Coverage under this Additional Coverage – Interruption Of Computer Operations is limited to the "specified causes of loss" and Collapse.
 - (b) If the Businessowners Coverage Form is endorsed to add a Covered Cause of Loss, the additional Covered Cause of Loss does not apply to the coverage provided under this Additional Coverage.
 - (c) The Covered Causes of Loss include a computer virus, harmful code or similar instruction introduced into or enacted on a computer system (including "electronic data") or a network to which it is connected, designed to damage or destroy any part of the system or disrupt its normal operation. But there is no coverage for an interruption related to manipulation of a computer system (including "electronic data") by any employee, including a temporary or leased employee, or by an entity retained by you, or for you, to inspect, design, install, modify, maintain, repair or replace that system.
- (3) The most we will pay under this Additional Coverage – Interruption Of Computer Operations for all loss sustained and expense incurred in any one policy year, regardless of the number of interruptions or the number of premises, locations or computer systems involved, is \$10,000 unless a higher Limit Of Insurance is shown in the Declarations. If loss payment relating to the first interruption does not exhaust this amount, then the balance is available for loss or expense sustained or incurred as a result of subsequent interruptions in that policy year. A balance remaining at the end of a policy year does not increase the amount of insurance in the next policy year. With respect to any interruption which begins in one policy year and continues or results in additional loss or expense in a subsequent policy year(s), all loss and expense is deemed to be sustained or incurred in the policy year in which the interruption began.
- (4) This Additional Coverage – Interruption Of Computer Operations does not apply to loss sustained or expense incurred after the end of the "period of restoration", even if the amount of insurance stated in (3) above has not been exhausted.
- (5) Coverage for Business Income does not apply when a suspension of "operations" is caused by destruction or corruption of "electronic data", or any loss or damage to "electronic data", except as provided under Paragraphs (1) through (4) of this Additional Coverage.

(6) Coverage for Extra Expense does not apply when action is taken to avoid or minimize a suspension of "operations" caused by destruction or corruption of "electronic data", or any loss or damage to "electronic data", except as provided under Paragraphs (1) through (4) of this Additional Coverage.

(7) This Additional Coverage does not apply when loss or damage to "electronic data" involves only "electronic data" which is integrated in and operates or controls a building's elevator, lighting, heating, ventilation, air conditioning or security system.

r. Limited Coverage For "Fungi", Wet Rot Or Dry Rot

(1) The coverage described in Paragraphs r.(2) and r.(6) only applies when the "fungi", wet rot or dry rot is the result of a "specified cause of loss" other than fire or lightning that occurs during the policy period and only if all reasonable means were used to save and preserve the property from further damage at the time of and after that occurrence.

This Additional Coverage does not apply to lawns, trees, shrubs or plants which are part of a vegetated roof.

(2) We will pay for loss or damage by "fungi", wet rot or dry rot. As used in this Limited Coverage, the term loss or damage means:

(a) Direct physical loss or damage to Covered Property caused by "fungi", wet rot or dry rot, including the cost of removal of the "fungi", wet rot or dry rot;

(b) The cost to tear out and replace any part of the building or other property as needed to gain access to the "fungi", wet rot or dry rot; and

(c) The cost of testing performed after removal, repair, replacement or restoration of the damaged property is completed, provided there is a reason to believe that "fungi", wet rot or dry rot is present.

(3) The coverage described under this Limited Coverage is limited to \$15,000. Regardless of the number of claims, this limit is the most we will pay for the total of all loss or damage arising out of all occurrences of "specified causes of loss" (other than fire or lightning) which take place in a 12-month period (starting with the beginning of the present annual policy period). With respect to a particular occurrence of loss which results in "fungi", wet rot or dry rot, we will not pay more than the total of \$15,000 even if the "fungi", wet rot or dry rot continues to be present or active, or recurs, in a later policy period

(4) The coverage provided under this Limited Coverage does not increase the applicable Limit of Insurance on any Covered Property. If a particular occurrence results in loss or damage by "fungi", wet rot or dry rot, and other loss or damage, we will not pay more, for the total of all loss or damage, than the applicable Limit of Insurance on the affected Covered Property.

If there is covered loss or damage to Covered Property, not caused by "fungi", wet rot or dry rot, loss payment will not be limited by the terms of this Limited Coverage, except to the extent that "fungi", wet rot or dry rot causes an increase in the loss. Any such increase in the loss will be subject to the terms of this Limited Coverage.

(5) The terms of this Limited Coverage do not increase or reduce the coverage provided under the Water Damage, Other Liquids, Powder Or Molten Material Damage or Collapse Additional Coverages.

- (6) The following applies only if Business Income and/or Extra Expense Coverage applies to the described premises and only if the suspension of "operations" satisfies all the terms and conditions of the applicable Business Income and/or Extra Expense Additional Coverage:

- (a) If the loss which resulted in "fungi", wet rot or dry rot does not in itself necessitate a suspension of "operations", but such suspension is necessary due to loss or damage to property caused by "fungi", wet rot or dry rot, then our payment under the Business Income and/or Extra Expense Additional Coverages is limited to the amount of loss and/or expense sustained in a period of not more than 30 days. The days need not be consecutive.
- (b) If a covered suspension of "operations" was caused by loss or damage other than "fungi", wet rot or dry rot, but remediation of "fungi", wet rot or dry rot prolongs the "period of restoration", we will pay for loss and/or expense sustained during the delay (regardless of when such a delay occurs during the "period of restoration"), but such coverage is limited to 30 days. The days need not be consecutive.

6. Coverage Extensions

In addition to the Limits of Insurance of Section I – Property, you may extend the insurance provided by this policy as provided below.

Except as otherwise provided, the following extensions apply to property located in or on the building described in the Declarations or in the open (or in a vehicle) within 100 feet of the described premises:

a. Newly Acquired Or Constructed Property

(1) Buildings

If this policy covers Buildings, you may extend that insurance to apply to:

- (a) Your new buildings while being built on the described premises; and
- (b) Buildings you acquire at premises other than the one described, intended for:
 - (i) Similar use as the building described in the Declarations; or
 - (ii) Use as a warehouse.

The most we will pay for loss or damage under this Extension is \$250,000 at each building.

(2) Business Personal Property

If this policy covers Business Personal Property, you may extend that insurance to apply to:

- (a) Business Personal Property, including such property that you newly acquire, at any location you acquire; or
- (b) Business Personal Property, including such property that you newly acquire, located at your newly constructed or acquired buildings at the location described in the Declarations.

This Extension does not apply to personal property that you temporarily acquire in the course of installing or performing work on such property or your wholesale activities.

The most we will pay for loss or damage under this Extension is \$100,000 at each building.

(3) Period Of Coverage

With respect to insurance provided under this Coverage Extension for Newly Acquired Or Constructed Property, coverage will end when any of the following first occurs:

- (a) This policy expires;
- (b) 30 days expire after you acquire the property or begin construction of that part of the building that would qualify as Covered Property; or
- (c) You report values to us.

We will charge you additional premium for values reported from the date you acquire the property or begin construction of that part of the building that would qualify as Covered Property.

b. Personal Property Off-premises

You may extend the insurance provided by this policy to apply to your Covered Property, other than "money" and "securities", "valuable papers and records" or accounts receivable, while it is in the course of transit or at a premises you do not own, lease or operate. The most we will pay for loss or damage under this Extension is \$10,000.

c. Outdoor Property

You may extend the insurance provided by this policy to apply to your outdoor fences, radio and television antennas (including satellite dishes), signs (other than signs attached to buildings), trees, shrubs and plants (other than trees, shrubs or plants which are part of a vegetated roof), including debris removal expense. Loss or damage must be caused by or result from any of the following causes of loss:

- (1) Fire;
- (2) Lightning;
- (3) Explosion;
- (4) Riot or Civil Commotion; or
- (5) Aircraft.

The most we will pay for loss or damage under this Extension is \$2,500, unless a higher Limit Of Insurance for Outdoor Property is shown in the Declarations, but not more than \$1,000 for any one tree, shrub or plant.

Subject to all aforementioned terms and limitations of coverage, this Coverage Extension includes the expense of removing from the described premises the debris of trees, shrubs and plants which are the property of others, except in the situation in which you are a tenant and such property is owned by the landlord of the described premises.

d. Personal Effects

You may extend the insurance that applies to Business Personal Property to apply to personal effects owned by you, your officers, your partners or "members", your "managers" or your employees, including temporary or leased employees. This extension does not apply to:

- (1) Tools or equipment used in your business; or
- (2) Loss or damage by theft.

The most we will pay for loss or damage under this Extension is \$2,500 at each described premises.

e. Valuable Papers And Records

- (1) You may extend the insurance that applies to Business Personal Property to apply to direct physical loss or damage to "valuable papers and records" that you own, or that are in your care, custody or control, caused by or resulting from a Covered Cause of Loss. This Coverage Extension includes the cost to research, replace or restore the lost information on "valuable papers and records" for which duplicates do not exist.

- (2) This Coverage Extension does not apply to:

- (a) Property held as samples or for delivery after sale; and
- (b) Property in storage away from the premises shown in the Declarations.

- (3) The most we will pay under this Coverage Extension for loss or damage to "valuable papers and records" in any one occurrence at the described premises is \$10,000, unless a higher Limit Of Insurance for "valuable papers and records" is shown in the Declarations.

For "valuable papers and records" not at the described premises, the most we will pay is \$5,000.

- (4) Loss or damage to "valuable papers and records" will be valued at the cost of restoration or replacement of the lost or damaged information. To the extent that the contents of the "valuable papers and records" are not restored, the "valuable papers and records" will be valued at the cost of replacement with blank materials of substantially identical type.

- (5) Paragraph B. Exclusions in Section I – Property does not apply to this Coverage Extension except for:

- (a) Paragraph B.1.c., Governmental Action;
- (b) Paragraph B.1.d., Nuclear Hazard;
- (c) Paragraph B.1.f., War And Military Action;

- (d) Paragraph B.2.f., Dishonesty;
- (e) Paragraph B.2.g., False Pretense;
- (f) Paragraph B.2.m.(2), Errors Or Omissions; and
- (g) Paragraph B.3.

f. Accounts Receivable

- (1) You may extend the insurance that applies to Business Personal Property to apply to accounts receivable. We will pay:

- (a) All amounts due from your customers that you are unable to collect;
- (b) Interest charges on any loan required to offset amounts you are unable to collect pending our payment of these amounts;
- (c) Collection expenses in excess of your normal collection expenses that are made necessary by loss or damage; and
- (d) Other reasonable expenses that you incur to reestablish your records of accounts receivable;

that result from direct physical loss or damage by any Covered Cause of Loss to your records of accounts receivable.

- (2) The most we will pay under this Coverage Extension for loss or damage in any one occurrence at the described premises is \$10,000, unless a higher Limit of Insurance for accounts receivable is shown in the Declarations.

For accounts receivable not at the described premises, the most we will pay is \$5,000.

- (3) Paragraph B. Exclusions in Section I – Property does not apply to this Coverage Extension except for:

- (a) Paragraph B.1.c., Governmental Action;
- (b) Paragraph B.1.d., Nuclear Hazard;
- (c) Paragraph B.1.f., War And Military Action;
- (d) Paragraph B.2.f., Dishonesty;
- (e) Paragraph B.2.g., False Pretense;
- (f) Paragraph B.3.; and
- (g) Paragraph B.6., Accounts Receivable Exclusion.

g. Business Personal Property Temporarily In Portable Storage Units

- (1) You may extend the insurance that applies to Business Personal Property to apply to such property while temporarily stored in a portable storage unit (including a detached trailer) located within 100 feet of the buildings or structures described in the Declarations or within 100 feet of the described premises, whichever distance is greater.

- (2) The limitation under Paragraph A.4.a.(5) also applies to property in a portable storage unit.

- (3) Coverage under this Extension:

- (a) Will end 90 days after the Business Personal Property has been placed in the storage unit;

- (b) Does not apply if the storage unit itself has been in use at the described premises for more than 90 consecutive days, even if the Business Personal Property has been stored there for 90 or fewer days as of the time of loss or damage.

- (4) Under this Extension, the most we will pay for the total of all loss or damage to Business Personal Property is \$10,000 (unless a higher limit is indicated in the Declarations for such Extension) regardless of the number of storage units.

- (5) This Extension does not apply to loss or damage otherwise covered under this Coverage Form or any endorsement to this Coverage Form, and does not apply to loss or damage to the storage unit itself.

B. Exclusions

1. We will not pay for loss or damage caused directly or indirectly by any of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss. These exclusions apply whether or not the loss event results in widespread damage or affects a substantial area.

a. Ordinance Or Law

- (1) The enforcement of or compliance with any ordinance or law:

- (a) Regulating the construction, use or repair of any property; or

(b) Requiring the tearing down of any property, including the cost of removing its debris.

(2) This exclusion, Ordinance Or Law, applies whether the loss results from:

(a) An ordinance or law that is enforced even if the property has not been damaged; or

(b) The increased costs incurred to comply with an ordinance or law in the course of construction, repair, renovation, remodeling or demolition of property or removal of its debris, following a physical loss to that property.

b. Earth Movement

(1) Earthquake, including tremors and aftershocks and any earth sinking, rising or shifting related to such event;

(2) Landslide, including any earth sinking, rising or shifting related to such event;

(3) Mine subsidence, meaning subsidence of a man-made mine, whether or not mining activity has ceased;

(4) Earth sinking (other than sinkhole collapse), rising or shifting including soil conditions which cause settling, cracking or other disarrangement of foundations or other parts of realty. Soil conditions include contraction, expansion, freezing, thawing, erosion, improperly compacted soil and the action of water under the ground surface.

But if Earth Movement, as described in Paragraphs (1) through (4) above, results in fire or explosion, we will pay for the loss or damage caused by that fire or explosion.

(5) Volcanic eruption, explosion or effusion. But if volcanic eruption, explosion or effusion results in fire, building glass breakage or volcanic action, we will pay for the loss or damage caused by that fire, building glass breakage or volcanic action.

Volcanic action means direct loss or damage resulting from the eruption of a volcano when the loss or damage is caused by:

(a) Airborne volcanic blast or airborne shock waves;

(b) Ash, dust or particulate matter; or

(c) Lava flow.

With respect to coverage for volcanic action as set forth in 5(a), (5)(b) and 5(c), all volcanic eruptions that occur within any 168-hour period will constitute a single occurrence.

Volcanic action does not include the cost to remove ash, dust or particulate matter that does not cause direct physical loss of or damage to Covered Property.

This exclusion applies regardless of whether any of the above, in Paragraphs (1) through (5), is caused by an act of nature or is otherwise caused.

c. Governmental Action

Seizure or destruction of property by order of governmental authority.

But we will pay for loss or damage caused by or resulting from acts of destruction ordered by governmental authority and taken at the time of a fire to prevent its spread, if the fire would be covered under this policy.

d. Nuclear Hazard

Nuclear reaction or radiation, or radioactive contamination, however caused.

But if nuclear reaction or radiation, or radioactive contamination, results in fire, we will pay for the loss or damage caused by that fire.

e. Utility Services

The failure of power, communication, water or other utility service supplied to the described premises, however caused, if the failure:

(1) Originates away from the described premises; or

(2) Originates at the described premises, but only if such failure involves equipment used to supply the utility service to the described premises from a source away from the described premises.

Failure of any utility service includes lack of sufficient capacity and reduction in supply.

Loss or damage caused by a surge of power is also excluded, if the surge would not have occurred but for an event causing a failure of power.

But if the failure or surge of power, or the failure of communication, water or other utility service, results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

Communication services include but are not limited to service relating to Internet access or access to any electronic, cellular or satellite network.

This exclusion does not apply to loss or damage to "computer(s)" and "electronic data".

f. War And Military Action

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

g. Water

- (1) Flood, surface water, waves (including tidal wave and tsunami), tides, tidal water, overflow of any body of water, or spray from any of these, all whether or not driven by wind (including storm surge);
- (2) Mudslide or mudflow;
- (3) Water that backs up or overflows or is otherwise discharged from a sewer, drain, sump, sump pump or related equipment;
- (4) Water under the ground surface pressing on, or flowing or seeping through:
 - (a) Foundations, walls, floors or paved surfaces;
 - (b) Basements, whether paved or not; or
 - (c) Doors, windows or other openings; or
- (5) Waterborne material carried or otherwise moved by any of the water referred to in Paragraph (1), (3) or (4), or material carried or otherwise moved by mudslide or mudflow.

This exclusion applies regardless of whether any of the above, in Paragraphs (1) through (5), is caused by an act of nature or is otherwise caused. An example of a situation to which this exclusion applies is the situation where a dam, levee, seawall or other boundary or containment system fails in whole or in part, for any reason, to contain the water.

But if any of the above, in Paragraphs (1) through (5), results in fire, explosion or sprinkler leakage, we will pay for the loss or damage caused by that fire, explosion or sprinkler leakage.

h. Certain Computer-related Losses

(1) The failure, malfunction or inadequacy of:

- (a) Any of the following, whether belonging to any insured or to others:

- (i) "Computer" hardware, including microprocessors or other electronic data processing equipment as may be described elsewhere in this policy;

- (ii) "Computer" application software or other "electronic data" as may be described elsewhere in this policy;

- (iii) "Computer" operating systems and related software;

- (iv) "Computer" networks;

- (v) Microprocessors ("computer" chips) not part of any "computer" system; or

- (vi) Any other computerized or electronic equipment or components; or

- (b) Any other products, and any services, data or functions that directly or indirectly use or rely upon, in any manner, any of the items listed in Paragraph (a) above;

due to the inability to correctly recognize, distinguish, interpret or accept one or more dates or times. An example is the inability of computer software to recognize the year 2000.

- (2) Any advice, consultation, design, evaluation, inspection, installation, maintenance, repair, replacement or supervision provided or done by you or for you to determine, rectify or test for, any potential or actual problems described in Paragraph (1) above.

However, if excluded loss or damage, as described in Paragraph (1) above, results in a "specified cause of loss" under Section I – Property, we will pay only for the loss or damage caused by such "specified cause of loss".

We will not pay for repair, replacement or modification of any items in Paragraph (1)(a) or (1)(b) to correct any deficiencies or change any features.

i. "Fungi", Wet Rot Or Dry Rot

Presence, growth, proliferation, spread or any activity of "fungi", wet rot or dry rot.

But if "fungi", wet rot or dry rot results in a "specified cause of loss", we will pay for the loss or damage caused by that "specified cause of loss".

This exclusion does not apply:

- (1) When "fungi", wet rot or dry rot results from fire or lightning; or
- (2) To the extent that coverage is provided in the Limited Coverage For "Fungi", Wet Rot Or Dry Rot Additional Coverage, with respect to loss or damage by a cause of loss other than fire or lightning.

j. Virus Or Bacteria

- (1) Any virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness or disease.
- (2) However, the exclusion in Paragraph (1) does not apply to loss or damage caused by or resulting from "fungi", wet rot or dry rot. Such loss or damage is addressed in Exclusion i.
- (3) With respect to any loss or damage subject to the exclusion in Paragraph (1), such exclusion supersedes any exclusion relating to "pollutants".

2. We will not pay for loss or damage caused by or resulting from any of the following:

a. Electrical Apparatus

Artificially generated electrical, magnetic or electromagnetic energy that damages, disturbs, disrupts or otherwise interferes with any:

- (1) Electrical or electronic wire, device, appliance, system or network; or
- (2) Device, appliance, system or network utilizing cellular or satellite technology.

For the purpose of this exclusion, electrical, magnetic or electromagnetic energy includes but is not limited to:

- (1) Electrical current, including arcing;
- (2) Electrical charge produced or conducted by a magnetic or electromagnetic field;
- (3) Pulse of electromagnetic energy; or
- (4) Electromagnetic waves or microwaves.

But if fire results, we will pay for the loss or damage caused by fire.

We will pay for loss or damage to "computer(s)" due to artificially generated electrical, magnetic or electromagnetic energy if such loss or damage is caused by or results from:

- (1) An occurrence that took place within 100 feet of the described premises; or
- (2) Interruption of electric power supply, power surge, blackout or brownout if the cause of such occurrence took place within 100 feet of the described premises.

b. Consequential Losses

Delay, loss of use or loss of market.

c. Smoke, Vapor, Gas

Smoke, vapor or gas from agricultural smudging or industrial operations.

d. Steam Apparatus

Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control. But if explosion of steam boilers, steam pipes, steam engines or steam turbines results in fire or combustion explosion, we will pay for the loss or damage caused by that fire or combustion explosion. We will also pay for loss or damage caused by or resulting from the explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.

e. Frozen Plumbing

Water, other liquids, powder or molten material that leaks or flows from plumbing, heating, air conditioning or other equipment (except fire protective systems) caused by or resulting from freezing, unless:

- (1) You do your best to maintain heat in the building or structure; or
- (2) You drain the equipment and shut off the supply if the heat is not maintained.

f. Dishonesty

Dishonest or criminal acts (including theft) by you, anyone else with an interest in the property, or any of your or their partners, "members", officers, "managers", employees (including temporary or leased employees), directors, trustees or authorized representatives, whether acting alone or in collusion with each other or with any other party; or theft by any person to whom you entrust the property for any purpose, whether acting alone or in collusion with any other party.

This exclusion:

- (1) Applies whether or not an act occurs during your normal hours of operation;
- (2) Does not apply to acts of destruction by your employees (including temporary or leased employees) or authorized representatives; but theft by your employees (including temporary or leased employees) or authorized representatives is not covered.

With respect to accounts receivable and "valuable papers and records", this exclusion does not apply to carriers for hire.

This exclusion does not apply to coverage that is provided under the Employee Dishonesty Optional Coverage.

g. False Pretense

Voluntary parting with any property by you or anyone else to whom you have entrusted the property if induced to do so by any fraudulent scheme, trick, device or false pretense.

h. Exposed Property

Rain, snow, ice or sleet to personal property in the open.

i. Collapse

(1) Collapse, including any of the following conditions of property or any part of the property:

- (a) An abrupt falling down or caving in;
- (b) Loss of structural integrity, including separation of parts of the property or property in danger of falling down or caving in; or
- (c) Any cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion as such condition relates to Paragraph i.(1)(a) or i.(1)(b).

But if collapse results in a Covered Cause of Loss at the described premises, we will pay for the loss or damage caused by that Covered Cause of Loss.

(2) This Exclusion i. does not apply:

- (a) To the extent that coverage is provided under the Additional Coverage – Collapse; or
- (b) To collapse caused by one or more of the following:
 - (i) The "specified causes of loss";
 - (ii) Breakage of building glass;
 - (iii) Weight of rain that collects on a roof; or
 - (iv) Weight of people or personal property.

j. Pollution

We will not pay for loss or damage caused by or resulting from the discharge, dispersal, seepage, migration, release or escape of "pollutants" unless the discharge, dispersal, seepage, migration, release or escape is itself caused by any of the "specified causes of loss". But if the discharge, dispersal, seepage, migration, release or escape of "pollutants" results in a "specified cause of loss", we will pay for the loss or damage caused by that "specified cause of loss".

k. Neglect

Neglect of an insured to use all reasonable means to save and preserve property from further damage at and after the time of loss.

l. Other Types Of Loss

- (1) Wear and tear;
- (2) Rust or other corrosion, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;
- (3) Smog;
- (4) Settling, cracking, shrinking or expansion;
- (5) Nesting or infestation, or discharge or release of waste products or secretions, by insects, birds, rodents or other animals;
- (6) Mechanical breakdown, including rupture or bursting caused by centrifugal force.

This exclusion does not apply with respect to the breakdown of "computer(s)";
- (7) The following causes of loss to personal property:
 - (a) Dampness or dryness of atmosphere;
 - (b) Changes in or extremes of temperature; or
 - (c) Marring or scratching.

But if an excluded cause of loss that is listed in Paragraphs (1) through (7) above results in a "specified cause of loss" or building glass breakage, we will pay for the loss or damage caused by that "specified cause of loss" or building glass breakage.

m. Errors Or Omissions

Errors or omissions in:

- (1) Programming, processing or storing data, as described under "electronic data" or in any "computer" operations; or
- (2) Processing or copying "valuable papers and records".

However, we will pay for direct physical loss or damage caused by resulting fire or explosion if these causes of loss would be covered by this Coverage Form.

n. Installation, Testing, Repair

Errors or deficiency in design, installation, testing, maintenance, modification or repair of your "computer" system including "electronic data".

However, we will pay for direct physical loss or damage caused by resulting fire or explosion if these causes of loss would be covered by this Coverage Form.

o. Electrical Disturbance

Electrical or magnetic injury, disturbance or erasure of "electronic data", except as provided for under the Additional Coverages of Section I – Property.

However, we will pay for direct loss or damage caused by lightning.

p. Continuous Or Repeated Seepage Or Leakage Of Water

Continuous or repeated seepage or leakage of water, or the presence or condensation of humidity, moisture or vapor, that occurs over a period of 14 days or more.

3. We will not pay for loss or damage caused by or resulting from any of the following Paragraphs a. through c. But if an excluded cause of loss that is listed in Paragraphs a. through c. results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

a. Weather Conditions

Weather conditions. But this exclusion only applies if weather conditions contribute in any way with a cause or event excluded in Paragraph B.1. above to produce the loss or damage.

b. Acts Or Decisions

Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.

c. Negligent Work

Faulty, inadequate or defective:

- (1) Planning, zoning, development, surveying, siting;
- (2) Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;
- (3) Materials used in repair, construction, renovation or remodeling; or
- (4) Maintenance;

of part or all of any property on or off the described premises.

4. Additional Exclusion

The following applies only to the property specified in this Additional Exclusion:

Loss Or Damage To Products

We will not pay for loss or damage to any merchandise, goods or other product caused by or resulting from error or omission by any person or entity (including those having possession under an arrangement where work or a portion of the work is outsourced) in any stage of the development, production or use of the product, including planning, testing, processing, packaging, installation, maintenance or repair. This exclusion applies to any effect that compromises the form, substance or quality of the product. But if such error or omission results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

5. Business Income And Extra Expense Exclusions

a. We will not pay for:

(1) Any Extra Expense, or increase of Business Income loss, caused by or resulting from:

(a) Delay in rebuilding, repairing or replacing the property or resuming "operations", due to interference at the location of the rebuilding, repair or replacement by strikers or other persons; or

(b) Suspension, lapse or cancellation of any license, lease or contract. But if the suspension, lapse or cancellation is directly caused by the suspension of "operations", we will cover such loss that affects your Business Income during the "period of restoration" and any extension of the "period of restoration" in accordance with the terms of the Extended Business Income Additional Coverage.

(2) Any other consequential loss.

b. With respect to this exclusion, suspension means:

(1) The partial slowdown or complete cessation of your business activities; and

(2) That a part or all of the described premises is rendered untenantable, if coverage for Business Income applies.

6. Accounts Receivable Exclusion

The following additional exclusion applies to the Accounts Receivable Coverage Extension:

We will not pay for:

a. Loss or damage caused by or resulting from alteration, falsification, concealment or destruction of records of accounts receivable done to conceal the wrongful giving, taking or withholding of "money", "securities" or other property.

This exclusion applies only to the extent of the wrongful giving, taking or withholding.

b. Loss or damage caused by or resulting from bookkeeping, accounting or billing errors or omissions.

c. Any loss or damage that requires any audit of records or any inventory computation to prove its factual existence.

C. Limits Of Insurance

1. The most we will pay for loss or damage in any one occurrence is the applicable Limits Of Insurance of Section I – Property shown in the Declarations.

2. The most we will pay for loss of or damage to outdoor signs attached to buildings is \$1,000 per sign in any one occurrence.

3. The amounts of insurance applicable to the Coverage Extensions and the following Additional Coverages apply in accordance with the terms of such coverages and are in addition to the Limits of Insurance of Section I - Property:

a. Fire Department Service Charge;

b. Pollutant Clean-up And Removal;

c. Increased Cost Of Construction;

d. Business Income From Dependent Properties;

e. Electronic Data; and

f. Interruption Of Computer Operations.

4. Building Limit – Automatic Increase

a. In accordance with Paragraph C.4.b., the Limit of Insurance for Buildings will automatically increase by 8%, unless a different percentage of annual increase is shown in the Declarations.

b. The amount of increase is calculated as follows:

- (1) Multiply the Building limit that applied on the most recent of the policy inception date, the policy anniversary date or any other policy change amending the Building limit by:
 - (a) The percentage of annual increase shown in the Declarations, expressed as a decimal (example: 7% is .07); or
 - (b) .08, if no percentage of annual increase is shown in the Declarations; and
- (2) Multiply the number calculated in accordance with b.(1) by the number of days since the beginning of the current policy year, or the effective date of the most recent policy change amending the Building limit, divided by 365.

Example

If:

The applicable Building limit is \$100,000. The annual percentage increase is 8%. The number of days since the beginning of the policy year (or last policy change) is 146.

The amount of increase is

$$\$100,000 \times .08 \times 146 \div 365 = \$3,200.$$

5. Business Personal Property Limit – Seasonal Increase

- a. Subject to Paragraph 5.b., the Limit of Insurance for Business Personal Property is automatically increased by:

- (1) The Business Personal Property – Seasonal Increase percentage shown in the Declarations; or
- (2) 25% if no Business Personal Property – Seasonal Increase percentage is shown in the Declarations;

to provide for seasonal variances.

- b. The increase described in Paragraph 5.a. will apply only if the Limit Of Insurance shown for Business Personal Property in the Declarations is at least 100% of your average monthly values during the lesser of:
 - (1) The 12 months immediately preceding the date the loss or damage occurs; or
 - (2) The period of time you have been in business as of the date the loss or damage occurs.

D. Deductibles

1. We will not pay for loss or damage in any one occurrence until the amount of loss or damage exceeds the Deductible shown in the Declarations. We will then pay the amount of loss or damage in excess of the Deductible up to the applicable Limit of Insurance of Section I - Property.
2. Regardless of the amount of the Deductible, the most we will deduct from any loss or damage under all of the following Optional Coverages in any one occurrence is the Optional Coverage Deductible shown in the Declarations:
 - a. Money and Securities;
 - b. Employee Dishonesty;
 - c. Outdoor Signs; and
 - d. Forgery or Alteration.

But this Optional Coverage Deductible will not increase the Deductible shown in the Declarations. This Deductible will be used to satisfy the requirements of the Deductible in the Declarations.

3. No deductible applies to the following Additional Coverages:
 - a. Fire Department Service Charge;
 - b. Business Income;
 - c. Extra Expense;
 - d. Civil Authority; and
 - e. Fire Extinguisher Systems Recharge Expense.

E. Property Loss Conditions

1. Abandonment

There can be no abandonment of any property to us.

2. Appraisal

If we and you disagree on the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If there is an appraisal, we will still retain our right to deny the claim.

3. Duties In The Event Of Loss Or Damage

a. You must see that the following are done in the event of loss or damage to Covered Property:

- (1) Notify the police if a law may have been broken.
- (2) Give us prompt notice of the loss or damage. Include a description of the property involved.
- (3) As soon as possible, give us a description of how, when and where the loss or damage occurred.
- (4) Take all reasonable steps to protect the Covered Property from further damage, and keep a record of your expenses necessary to protect the Covered Property, for consideration in the settlement of the claim. This will not increase the Limits of Insurance of Section I – Property. However, we will not pay for any subsequent loss or damage resulting from a cause of loss that is not a Covered Cause of Loss. Also, if feasible, set the damaged property aside and in the best possible order for examination.
- (5) At our request, give us complete inventories of the damaged and undamaged property. Include quantities, costs, values and amount of loss claimed.
- (6) As often as may be reasonably required, permit us to inspect the property proving the loss or damage and examine your books and records.

Also permit us to take samples of damaged and undamaged property for inspection, testing and analysis, and permit us to make copies from your books and records.
- (7) Send us a signed, sworn proof of loss containing the information we request to investigate the claim. You must do this within 60 days after our request. We will supply you with the necessary forms.
- (8) Cooperate with us in the investigation or settlement of the claim.
- (9) Resume all or part of your "operations" as quickly as possible.

b. We may examine any insured under oath, while not in the presence of any other insured and at such times as may be reasonably required, about any matter relating to this insurance or the claim, including an insured's books and records. In the event of an examination, an insured's answers must be signed.

4. Legal Action Against Us

No one may bring a legal action against us under this insurance unless:

- a. There has been full compliance with all of the terms of this insurance; and
- b. The action is brought within two years after the date on which the direct physical loss or damage occurred.

5. Loss Payment

In the event of loss or damage covered by this policy:

- a. At our option, we will either:
 - (1) Pay the value of lost or damaged property;
 - (2) Pay the cost of repairing or replacing the lost or damaged property;
 - (3) Take all or any part of the property at an agreed or appraised value; or
 - (4) Repair, rebuild or replace the property with other property of like kind and quality, subject to Paragraph d.(1)(e) below.
- b. We will give notice of our intentions within 30 days after we receive the sworn proof of loss.
- c. We will not pay you more than your financial interest in the Covered Property.
- d. Except as provided in Paragraphs (2) through (7) below, we will determine the value of Covered Property as follows:
 - (1) At replacement cost without deduction for depreciation, subject to the following:
 - (a) If, at the time of loss, the Limit of Insurance on the lost or damaged property is 80% or more of the full replacement cost of the property immediately before the loss, we will pay the cost to repair or replace, after application of the deductible and without deduction for depreciation, but not more than the least of the following amounts:
 - (i) The Limit of Insurance under Section I – Property that applies to the lost or damaged property;

(ii) The cost to replace, on the same premises, the lost or damaged property with other property:

- i. Of comparable material and quality; and
- ii. Used for the same purpose; or

(iii) The amount that you actually spend that is necessary to repair or replace the lost or damaged property.

If a building is rebuilt at a new premises, the cost is limited to the cost which would have been incurred had the building been built at the original premises.

(b) If, at the time of loss, the Limit of Insurance applicable to the lost or damaged property is less than 80% of the full replacement cost of the property immediately before the loss, we will pay the greater of the following amounts, but not more than the Limit of Insurance that applies to the property:

- (i) The actual cash value of the lost or damaged property; or
- (ii) A proportion of the cost to repair or replace the lost or damaged property, after application of the deductible and without deduction for depreciation. This proportion will equal the ratio of the applicable Limit of Insurance to 80% of the full replacement cost of the property.

Example

The full replacement cost of property which suffers a total loss is \$100,000. The property is insured for \$70,000. 80% of the full replacement cost of the property immediately before the loss is \$80,000 ($\$100,000 \times .80 = \$80,000$). A partial loss of \$25,000 is sustained. The amount of recovery is determined as follows:

Amount of recovery

$$\$70,000 \div \$80,000 = .875$$

$$.875 \times \$25,000 = \$21,875$$

(c) You may make a claim for loss or damage covered by this insurance on an actual cash value basis instead of on a replacement cost basis. In the event you elect to have loss or damage settled on an actual cash value basis, you may still make a claim on a replacement cost basis if you notify us of your intent to do so within 180 days after the loss or damage.

(d) We will not pay on a replacement cost basis for any loss or damage:

- (i) Until the lost or damaged property is actually repaired or replaced; and
- (ii) Unless the repair or replacement is made as soon as reasonably possible after the loss or damage.

However, if the cost to repair or replace the damaged building property is \$2,500 or less, we will settle the loss according to the provisions of Paragraphs d.(1)(a) and d.(1)(b) above whether or not the actual repair or replacement is complete.

(e) The cost to repair, rebuild or replace does not include the increased cost attributable to enforcement of or compliance with any ordinance or law regulating the construction, use or repair of any property.

(2) If the Actual Cash Value – Buildings option applies, as shown in the Declarations, Paragraph (1) above does not apply to Buildings. Instead, we will determine the value of Buildings at actual cash value.

(3) The following property at actual cash value:

- (a) Used or secondhand merchandise held in storage or for sale;
- (b) Property of others. However, if an item(s) of personal property of others is subject to a written contract which governs your liability for loss or damage to that item(s), then valuation of that item(s) will be based on the amount for which you are liable under such contract, but not to exceed the lesser of the replacement cost of the property or the applicable Limit of Insurance;

- (c) Household contents, except personal property in apartments or rooms furnished by you as landlord;
 - (d) Manuscripts; and
 - (e) Works of art, antiques or rare articles, including etchings, pictures, statuary, marble, bronzes, porcelain and bric-a-brac.
- (4) Glass at the cost of replacement with safety glazing material if required by law.
- (5) Tenants' improvements and betterments at:
- (a) Replacement cost if you make repairs promptly.
 - (b) A proportion of your original cost if you do not make repairs promptly. We will determine the proportionate value as follows:
 - (i) Multiply the original cost by the number of days from the loss or damage to the expiration of the lease; and
 - (ii) Divide the amount determined in (1) above by the number of days from the installation of improvements to the expiration of the lease.

If your lease contains a renewal option, the expiration of the renewal option period will replace the expiration of the lease in this procedure.
 - (c) Nothing if others pay for repairs or replacement.
- (6) Applicable only to the Optional Coverages:
- (a) "Money" at its face value; and
 - (b) "Securities" at their value at the close of business on the day the loss is discovered.
- (7) Applicable only to accounts receivable:
- (a) If you cannot accurately establish the amount of accounts receivable outstanding as of the time of loss or damage:
 - (i) We will determine the total of the average monthly amounts of accounts receivable for the 12 months immediately preceding the month in which the loss or damage occurs; and
 - (ii) We will adjust that total for any normal fluctuations in the amount of accounts receivable for the month in which the loss or damage occurred or for any demonstrated variance from the average for that month.
 - (b) The following will be deducted from the total amount of accounts receivable, however that amount is established:
 - (i) The amount of the accounts for which there is no loss or damage;
 - (ii) The amount of the accounts that you are able to reestablish or collect;
 - (iii) An amount to allow for probable bad debts that you are normally unable to collect; and
 - (iv) All unearned interest and service charges.
- e. Our payment for loss of or damage to personal property of others will only be for the account of the owners of the property. We may adjust losses with the owners of lost or damaged property if other than you. If we pay the owners, such payments will satisfy your claims against us for the owners' property. We will not pay the owners more than their financial interest in the Covered Property.
- f. We may elect to defend you against suits arising from claims of owners of property. We will do this at our expense.
- g. We will pay for covered loss or damage within 30 days after we receive the sworn proof of loss, provided you have complied with all of the terms of this policy, and:
- (1) We have reached agreement with you on the amount of loss; or
 - (2) An appraisal award has been made.

- h. A party wall is a wall that separates and is common to adjoining buildings that are owned by different parties. In settling covered losses involving a party wall, we will pay a proportion of the loss to the party wall based on your interest in the wall in proportion to the interest of the owner of the adjoining building. However, if you elect to repair or replace your building and the owner of the adjoining building elects not to repair or replace that building, we will pay you the full value of the loss to the party wall, subject to all applicable policy provisions including Limits of Insurance and all other provisions of this Loss Payment Condition. Our payment under the provisions of this paragraph does not alter any right of subrogation we may have against any entity, including the owner or insurer of the adjoining building, and does not alter the terms of the Transfer Of Rights Of Recovery Against Others To Us Condition in this policy.

6. Recovered Property

If either you or we recover any property after loss settlement, that party must give the other prompt notice. At your option, you may retain the property. But then you must return to us the amount we paid to you for the property. We will pay recovery expenses and the expenses to repair the recovered property, subject to the Limits of Insurance of Section I – Property.

7. Resumption Of Operations

We will reduce the amount of your:

- a. Business Income loss, other than Extra Expense, to the extent you can resume your "operations", in whole or in part, by using damaged or undamaged property (including merchandise or stock) at the described premises or elsewhere.
- b. Extra Expense loss to the extent you can return "operations" to normal and discontinue such Extra Expense.

8. Vacancy

a. Description Of Terms

- (1) As used in this Vacancy Condition, the term building and the term vacant have the meanings set forth in Paragraphs (a) and (b) below:

- (a) When this policy is issued to a tenant, and with respect to that tenant's interest in Covered Property, building means the unit or suite rented or leased to the tenant. Such building is vacant when it does not contain enough business personal property to conduct customary operations.

- (b) When this policy is issued to the owner or general lessee of a building, building means the entire building. Such building is vacant unless at least 31% of its total square footage is:

- (i) Rented to a lessee or sublessee and used by the lessee or sublessee to conduct its customary operations; and/or

- (ii) Used by the building owner to conduct customary operations.

- (2) Buildings under construction or renovation are not considered vacant.

b. Vacancy Provisions

If the building where loss or damage occurs has been vacant for more than 60 consecutive days before that loss or damage occurs:

- (1) We will not pay for any loss or damage caused by any of the following even if they are Covered Causes of Loss:

- (a) Vandalism;

- (b) Sprinkler leakage, unless you have protected the system against freezing;

- (c) Building glass breakage;
- (d) Water damage;
- (e) Theft; or
- (f) Attempted theft.

- (2) With respect to Covered Causes of Loss other than those listed in Paragraphs (1)(a) through (1)(f) above, we will reduce the amount we would otherwise pay for the loss or damage by 15%.

F. Property General Conditions

1. Control Of Property

Any act or neglect of any person other than you beyond your direction or control will not affect this insurance.

The breach of any condition of this Coverage Form at any one or more locations will not affect coverage at any location where, at the time of loss or damage, the breach of condition does not exist.

2. Mortgageholders

- a. The term "mortgageholder" includes trustee.
- b. We will pay for covered loss of or damage to buildings or structures to each mortgageholder shown in the Declarations in their order of precedence, as interests may appear.
- c. The mortgageholder has the right to receive loss payment even if the mortgageholder has started foreclosure or similar action on the building or structure.
- d. If we deny your claim because of your acts or because you have failed to comply with the terms of this policy, the mortgageholder will still have the right to receive loss payment if the mortgageholder:
 - (1) Pays any premium due under this policy at our request if you have failed to do so;
 - (2) Submits a signed, sworn proof of loss within 60 days after receiving notice from us of your failure to do so; and
 - (3) Has notified us of any change in ownership, occupancy or substantial change in risk known to the mortgageholder.

All of the terms of this policy will then apply directly to the mortgageholder.

- e. If we pay the mortgageholder for any loss or damage and deny payment to you because of your acts or because you have failed to comply with the terms of this policy:

- (1) The mortgageholder's rights under the mortgage will be transferred to us to the extent of the amount we pay; and
- (2) The mortgageholder's right to recover the full amount of the mortgageholder's claim will not be impaired.

At our option, we may pay to the mortgageholder the whole principal on the mortgage plus any accrued interest. In this event, your mortgage and note will be transferred to us and you will pay your remaining mortgage debt to us.

- f. If we cancel this policy, we will give written notice to the mortgageholder at least:
 - (1) 10 days before the effective date of cancellation if we cancel for your nonpayment of premium; or
 - (2) 30 days before the effective date of cancellation if we cancel for any other reason.
- g. If we elect not to renew this policy, we will give written notice to the mortgageholder at least 10 days before the expiration date of this policy.

3. No Benefit To Bailee

No person or organization, other than you, having custody of Covered Property will benefit from this insurance.

4. Policy Period, Coverage Territory

Under Section I – Property:

- a. We cover loss or damage commencing:
 - (1) During the policy period shown in the Declarations; and
 - (2) Within the coverage territory or, with respect to property in transit, while it is between points in the coverage territory.
- b. The coverage territory is:
 - (1) The United States of America (including its territories and possessions);
 - (2) Puerto Rico; and
 - (3) Canada.

G. Optional Coverages

If shown as applicable in the Declarations, the following Optional Coverages also apply. These coverages are subject to the terms and conditions applicable to property coverage in this policy, except as provided below:

1. Outdoor Signs

- a. We will pay for direct physical loss of or damage to all outdoor signs at the described premises:
 - (1) Owned by you; or
 - (2) Owned by others but in your care, custody or control.
- b. Paragraph A.3., Covered Causes Of Loss and Paragraph B., Exclusions in Section I – Property do not apply to this Optional Coverage, except for:
 - (1) Paragraph B.1.c., Governmental Action;
 - (2) Paragraph B.1.d., Nuclear Hazard; and
 - (3) Paragraph B.1.f., War And Military Action.
- c. We will not pay for loss or damage caused by or resulting from:
 - (1) Wear and tear;
 - (2) Hidden or latent defect;
 - (3) Rust;
 - (4) Corrosion; or
 - (5) Mechanical breakdown.
- d. The most we will pay for loss or damage in any one occurrence is the Limit Of Insurance for Outdoor Signs shown in the Declarations.
- e. The provisions of this Optional Coverage supersede all other references to outdoor signs in this policy.

2. Money And Securities

- a. We will pay for loss of "money" and "securities" used in your business while at a bank or savings institution, within your living quarters or the living quarters of your partners or any employee (including a temporary or leased employee) having use and custody of the property, at the described premises, or in transit between any of these places, resulting directly from:
 - (1) Theft, meaning any act of stealing;
 - (2) Disappearance; or
 - (3) Destruction.

- b. In addition to the Limitations and Exclusions applicable to Section I – Property, we will not pay for loss:

- (1) Resulting from accounting or arithmetical errors or omissions;
- (2) Due to the giving or surrendering of property in any exchange or purchase; or
- (3) Of property contained in any "money"-operated device unless the amount of "money" deposited in it is recorded by a continuous recording instrument in the device.

- c. The most we will pay for loss in any one occurrence is:

- (1) The limit shown in the Declarations for Inside the Premises for "money" and "securities" while:
 - (a) In or on the described premises; or
 - (b) Within a bank or savings institution; and
- (2) The limit shown in the Declarations for Outside the Premises for "money" and "securities" while anywhere else.

- d. All loss:

- (1) Caused by one or more persons; or
 - (2) Involving a single act or series of related acts;
- is considered one occurrence.

- e. You must keep records of all "money" and "securities" so we can verify the amount of any loss or damage.

3. Employee Dishonesty

- a. We will pay for direct loss of or damage to Business Personal Property and "money" and "securities" resulting from dishonest acts committed by any of your employees acting alone or in collusion with other persons (except you or your partner) with the manifest intent to:
 - (1) Cause you to sustain loss or damage; and also
 - (2) Obtain financial benefit (other than salaries, commissions, fees, bonuses, promotions, awards, profit sharing, pensions or other employee benefits earned in the normal course of employment) for:
 - (a) Any employee; or
 - (b) Any other person or organization.

- b. We will not pay for loss or damage:
 - (1) Resulting from any dishonest or criminal act that you or any of your partners or "members" commit whether acting alone or in collusion with other persons.
 - (2) Resulting from any dishonest act committed by any of your employees (except as provided in Paragraph a.), "managers" or directors:
 - (a) Whether acting alone or in collusion with other persons; or
 - (b) While performing services for you or otherwise.
 - (3) The only proof of which as to its existence or amount is:
 - (a) An inventory computation; or
 - (a) A profit and loss computation.
 - (4) Caused by an employee if the employee had also committed theft or any other dishonest act prior to the effective date of this policy and you or any of your partners, "members", "managers", officers, directors or trustees, not in collusion with the employee, learned of that theft or dishonest act prior to the policy period shown in the Declarations.
- c. The most we will pay for loss or damage in any one occurrence is the Limit Of Insurance for Employee Dishonesty shown in the Declarations.
- d. All loss or damage:
 - (1) Caused by one or more persons; or
 - (2) Involving a single act or series of acts; is considered one occurrence.
- e. If any loss is covered:
 - (1) Partly by this insurance; and
 - (2) Partly by any prior cancelled or terminated insurance that we or any affiliate had issued to you or any predecessor in interest;

the most we will pay is the larger of the amount recoverable under this insurance or the prior insurance.

We will pay only for loss or damage you sustain through acts committed or events occurring during the policy period. Regardless of the number of years this policy remains in force or the number of premiums paid, no Limit of Insurance cumulates from year to year or period to period.
- f. This Optional Coverage is cancelled as to any employee immediately upon discovery by:
 - (1) You; or
 - (2) Any of your partners, "members", "managers", officers or directors not in collusion with the employee;

of any dishonest act committed by that employee before or after being hired by you.
- g. We will pay only for covered loss or damage sustained during the policy period and discovered no later than one year from the end of the policy period.
- h. If you (or any predecessor in interest) sustained loss or damage during the policy period of any prior insurance that you could have recovered under that insurance except that the time within which to discover loss or damage had expired, we will pay for it under this Optional Coverage, provided:
 - (1) This Optional Coverage became effective at the time of cancellation or termination of the prior insurance; and
 - (2) The loss or damage would have been covered by this Optional Coverage had it been in effect when the acts or events causing the loss or damage were committed or occurred.
- i. The insurance under Paragraph h. above is part of, not in addition to, the Limit of Insurance applying to this Optional Coverage and is limited to the lesser of the amount recoverable under:
 - (1) This Optional Coverage as of its effective date; or
 - (2) The prior insurance had it remained in effect.
- j. With respect to the Employee Dishonesty Optional Coverage in Paragraph G.3., employee means:
 - (1) Any natural person:
 - (a) While in your service or for 30 days after termination of service;
 - (b) Who you compensate directly by salary, wages or commissions; and
 - (c) Who you have the right to direct and control while performing services for you;

- (2) Any natural person who is furnished temporarily to you:
 - (a) To substitute for a permanent employee, as defined in Paragraph (1) above, who is on leave; or
 - (b) To meet seasonal or short-term workload conditions;
- (3) Any natural person who is leased to you under a written agreement between you and a labor leasing firm, to perform duties related to the conduct of your business, but does not mean a temporary employee as defined in Paragraph (2) above;
- (4) Any natural person who is a former employee, director, partner, member, manager, representative or trustee retained as a consultant while performing services for you; or
- (5) Any natural person who is a guest student or intern pursuing studies or duties, excluding, however, any such person while having care and custody of property outside any building you occupy in conducting your business.

But employee does not mean:

- (1) Any agent, broker, factor, commission merchant, consignee, independent contractor or representative of the same general character; or
- (2) Any "manager", director or trustee except while performing acts coming within the usual duties of an employee.

4. Equipment Breakdown Protection Coverage

- a. We will pay for direct loss of or damage to Covered Property caused by or resulting from a mechanical breakdown or electrical failure to pressure, mechanical or electrical machinery and equipment.

Mechanical breakdown or electrical failure to pressure, mechanical or electrical machinery and equipment does not mean any:

- (1) Malfunction including but not limited to adjustment, alignment, calibration, cleaning or modification;
- (2) Leakage at any valve, fitting, shaft seal, gland packing, joint or connection;
- (3) Damage to any vacuum tube, gas tube, or brush; or
- (4) The functioning of any safety or protective device.

- b. Paragraphs A.4.a.(1) and A.4.a.(2), Limitations, do not apply to this Optional Coverage.

- c. With respect to the coverage provided by this Optional Coverage, the following exclusions in Paragraph B. Exclusions do not apply:

- (1) Paragraph B.2.a., Electrical Apparatus;
- (2) Paragraph B.2.d., Steam Apparatus; and
- (3) Paragraph B.2.i.(6), Mechanical Breakdown.

- d. With respect to the coverage provided by this Optional Coverage, Paragraph G.1.c.(5) of the Outdoor Signs Optional Coverage does not apply.

- e. If a dollar deductible is shown in the Declarations for this Optional Coverage, we will first subtract the applicable deductible amount from any loss we would otherwise pay. We will then pay the amount of loss in excess of the applicable deductible up to the applicable limit for this coverage.

If no optional deductible is chosen for this Optional Coverage, the Property Deductible shown in the Declarations applies.

- f. With respect to Additional Coverages 5.f. Business Income and 5.g. Extra Expense, if the 72-hour time period in the definition of "period of restoration" (hereinafter referred to as time deductible) is amended for this Optional Coverage as shown in the Declarations, we will not pay for any Business Income loss that occurs during the consecutive number of hours shown as the time deductible in the Declarations immediately following a mechanical breakdown or electrical failure. If a time deductible is shown in days, each day shall mean 24 consecutive hours.

With respect to the coverage provided by this Optional Coverage, any time deductible shown in the Declarations for Equipment Breakdown Protection Coverage supersedes any time deductible otherwise applicable to the Business Income coverage provided by this policy.

- g. With respect to the coverage provided by this Optional Coverage, Paragraph H. Property Definitions is amended as follows:

- 1. "Computer" means:

- a. Programmable electronic equipment that is used to store, retrieve and process data; and

- b. Associated peripheral equipment that provides communication, including input and output functions such as printing and auxiliary functions such as data transmission.

"Computer" includes those used to operate production-type machinery or equipment.

- h. Whenever any covered pressure, mechanical or electrical machinery and equipment is found to be in, or exposed to, a dangerous condition, any of our representatives may suspend coverage provided by this Optional Coverage for loss from a mechanical breakdown or electrical failure to that pressure, mechanical or electrical machinery and equipment.

However, coverage provided by this Optional Coverage may be reinstated for loss from a mechanical breakdown or electrical failure to that pressure, mechanical or electrical machinery and equipment if the reasons for the suspension are found by any of our representatives to no longer exist.

We may suspend or reinstate this Optional coverage by mailing or delivering a written notification regarding the suspension or reinstatement to:

- (1) Your last known address; or
- (2) The address where the pressure, mechanical or electrical machinery and equipment is located.

This notification will indicate the effective date of the suspension or reinstatement.

If the coverage provided by this Optional Coverage is not reinstated, you will get a pro rata refund of premium. But the suspension will be effective even if we have not yet made or offered a refund.

H. Property Definitions

1. "Computer" means:

- a. Programmable electronic equipment that is used to store, retrieve and process data; and
- b. Associated peripheral equipment that provides communication, including input and output functions such as printing and auxiliary functions such as data transmission.

"Computer" does not include those used to operate production-type machinery or equipment.

- 2. "Counterfeit money" means an imitation of "money" that is intended to deceive and to be taken as genuine.
- 3. "Electronic data" means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a "computer" or device connected to it, which enable the "computer" or device to receive, process, store, retrieve or send data.
- 4. "Fungi" means any type or form of fungus, including mold or mildew, and any mycotoxins, spores, scents or by-products produced or released by fungi.
- 5. "Manager" means a person serving in a directorial capacity for a limited liability company.
- 6. "Member" means an owner of a limited liability company represented by its membership interest, who also may serve as a "manager".
- 7. "Money" means:
 - a. Currency, coins and bank notes in current use and having a face value; and
 - b. Traveler's checks, register checks and money orders held for sale to the public.
- 8. "Operations" means your business activities occurring at the described premises.
- 9. "Period of restoration":
 - a. Means the period of time that:
 - (1) Begins:
 - (a) 72 hours after the time of direct physical loss or damage for Business Income Coverage; or
 - (b) Immediately after the time of direct physical loss or damage for Extra Expense Coverage;
 - caused by or resulting from any Covered Cause of Loss at the described premises; and

(2) Ends on the earlier of:

(a) The date when the property at the described premises should be repaired, rebuilt or replaced with reasonable speed and similar quality; or

(b) The date when business is resumed at a new permanent location.

b. Does not include any increased period required due to the enforcement of or compliance with any ordinance or law that:

(1) Regulates the construction, use or repair, or requires the tearing down of any property; or

(2) Requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

The expiration date of this policy will not cut short the "period of restoration".

10. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

11. "Securities" means negotiable and nonnegotiable instruments or contracts representing either "money" or other property and includes:

a. Tokens, tickets, revenue and other stamps (whether represented by actual stamps or unused value in a meter) in current use; and

b. Evidences of debt issued in connection with credit or charge cards, which cards are not issued by you;

but does not include "money".

12. "Specified causes of loss" means the following:

Fire; lightning; explosion; windstorm or hail; smoke; aircraft or vehicles; riot or civil commotion; vandalism; leakage from fire extinguishing equipment; sinkhole collapse; volcanic action; falling objects; weight of snow, ice or sleet; water damage.

a. Sinkhole collapse means the sudden sinking or collapse of land into underground empty spaces created by the action of water on limestone or dolomite. This cause of loss does not include:

(1) The cost of filling sinkholes; or

(2) Sinking or collapse of land into man-made underground cavities.

b. Falling objects does not include loss of or damage to:

(1) Personal property in the open; or

(2) The interior of a building or structure, or property inside a building or structure, unless the roof or an outside wall of the building or structure is first damaged by a falling object.

c. Water damage means:

(1) Accidental discharge or leakage of water or steam as the direct result of the breaking apart or cracking of any part of a system or appliance (other than a sump system including its related equipment and parts) containing water or steam; and

(2) Accidental discharge or leakage of water or waterborne material as the direct result of the breaking apart or cracking of a water or sewer pipe that is located off the described premises and is part of a municipal potable water supply system or municipal sanitary sewer system, if the breakage or cracking is caused by wear and tear.

But water damage does not include loss or damage otherwise excluded under the terms of the Water Exclusion. Therefore, for example, there is no coverage in the situation in which discharge or leakage of water results from the breaking apart or cracking of a pipe which was caused by or related to weather-induced flooding, even if wear and tear contributed to the breakage or cracking. As another example, and also in accordance with the terms of the Water Exclusion, there is no coverage for loss or damage caused by or related to weather-induced flooding which follows or is exacerbated by pipe breakage or cracking attributable to wear and tear.

To the extent that accidental discharge or leakage of water falls within the criteria set forth in c.(1) or c.(2) of this definition of "specified causes of loss", such water is not subject to the provisions of the Water Exclusion which preclude coverage for surface water or water under the ground surface.

13. "Stock" means merchandise held in storage or for sale, raw materials and in-process or finished goods, including supplies used in their packing or shipping.

14. "Valuable papers and records" means inscribed, printed or written:

- a. Documents;
- b. Manuscripts; and
- c. Records;

including abstracts, books, deeds, drawings, films, maps or mortgages.

But "valuable papers and records" does not mean "money" or "securities".

SECTION II – LIABILITY

A. Coverages

1. Business Liability

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury", "property damage" or "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" or any offense and settle any claim or "suit" that may result. But:

(1) The amount we will pay for damages is limited as described in Paragraph D. Liability And Medical Expenses Limits Of Insurance in Section II – Liability; and

(2) Our right and duty to defend end when we have used up the applicable Limit of Insurance in the payment of judgments or settlements or medical expenses.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Paragraph f. Coverage Extension – Supplementary Payments.

- b. This insurance applies:

(1) To "bodily injury" and "property damage" only if:

(a) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

(b) The "bodily injury" or "property damage" occurs during the policy period; and

(c) Prior to the policy period, no insured listed under Paragraph C.1. Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known before the policy period.

(2) To "personal and advertising injury" caused by an offense arising out of your business, but only if the offense was committed in the "coverage territory" during the policy period.

- c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph C.1. Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of "bodily injury" or "property damage" after the end of the policy period.

- d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph C.1. Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

(1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;

(2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or

(3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

- e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

f. Coverage Extension – Supplementary Payments

(1) We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

- (a) All expenses we incur.
- (b) Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which Business Liability Coverage for "bodily injury" applies. We do not have to furnish these bonds.
- (c) The cost of bonds to release attachments, but only for bond amounts within our Limit of Insurance. We do not have to furnish these bonds.
- (d) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
- (e) All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
- (f) Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the Limit of Insurance, we will not pay any prejudgment interest based on that period of time after the offer.
- (g) All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within our Limit of Insurance.

These payments will not reduce the limit of liability.

(2) If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

- (a) The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
- (b) This insurance applies to such liability assumed by the insured;
- (c) The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
- (d) The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
- (e) The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- (f) The indemnitee:
 - (i) Agrees in writing to:
 - i. Cooperate with us in the investigation, settlement or defense of the "suit";
 - ii. Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
 - iii. Notify any other insurer whose coverage is available to the indemnitee; and

- iv. Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
- (ii) Provides us with written authorization to:
 - i. Obtain records and other information related to the "suit"; and
 - ii. Conduct and control the defense of the indemnitee in such "suit".
- (3) So long as the conditions in Paragraph (2) are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph B.1.b.(2) Exclusions in Section II – Liability, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the Limits of Insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

- (a) We have used up the applicable Limit of Insurance in the payment of judgments or settlements; or
- (b) The conditions set forth above, or the terms of the agreement described in Paragraph (2)(f) above, are no longer met.

2. Medical Expenses

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:
 - (1) On premises you own or rent;
 - (2) On ways next to premises you own or rent; or
 - (3) Because of your operations;
 provided that:
 - (a) The accident takes place in the "coverage territory" and during the policy period;
 - (b) The expenses are incurred and reported to us within one year of the date of the accident; and

- (c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.
- b. We will make these payments regardless of fault. These payments will not exceed the Limits of Insurance of Section II – Liability. We will pay reasonable expenses for:
 - (1) First aid administered at the time of an accident;
 - (2) Necessary medical, surgical, X-ray and dental services, including prosthetic devices; and
 - (3) Necessary ambulance, hospital, professional nursing and funeral services.

B. Exclusions

1. Applicable To Business Liability Coverage

This insurance does not apply to:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:
 - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and

- (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies even if the claims allege negligence or other wrongdoing in:

- (a) The supervision, hiring, employment, training or monitoring of others by an insured; or
- (b) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

if the "occurrence" which caused the "bodily injury" or "property damage", involved that which is described in Paragraph (1), (2) or (3) above.

However, this exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
 - (a) Employment by the insured; or

- (b) Performing duties related to the conduct of the insured's business; or

- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

f. Pollution

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

- (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:

- (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;

- (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";

(b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;

(c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

(i) Any insured; or

(ii) Any person or organization for whom you may be legally responsible;

(d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

(i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

(ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire"; or

(e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

(2) Any loss, cost or expense arising out of any:

(a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

(b) Claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement or such claim or "suit" by or on behalf of a governmental authority.

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
 - (a) Less than 51 feet long; and
 - (b) Not being used to carry persons or property for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or
- (5) "Bodily injury" or "property damage" arising out of:
 - (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance or motor vehicle registration law where it is licensed or principally garaged; or
 - (b) The operation of any of the following machinery or equipment:
 - (i) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
 - (ii) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition or stunting activity.

i. War

"Bodily injury", "property damage" or "personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by government authority in hindering or defending against any of these.

j. Professional Services

"Bodily injury", "property damage" or "personal and advertising injury" caused by the rendering or failure to render any professional service. This includes but is not limited to:

- (1) Legal, accounting or advertising services;
- (2) Preparing, approving, or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications;
- (3) Supervisory, inspection or engineering services;
- (4) Medical, surgical, dental, X-ray or nursing services treatment, advice or instruction;
- (5) Any health or therapeutic service treatment, advice or instruction;
- (6) Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement or personal grooming;

(7) Optometry or optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;

(8) Body piercing services; and

(9) Services in the practice of pharmacy.

This exclusion applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering or failure to render of any professional service.

k. Damage To Property

"Property damage" to:

- (1) Property you own, rent or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractor or subcontractor working directly or indirectly on your behalf is performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of seven or fewer consecutive days. A separate Limit of Insurance applies to Damage To Premises Rented To You as described in Paragraph D. Liability And Medical Expenses Limits Of Insurance in Section II – Liability.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

l. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

m. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

n. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

o. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

p. Personal And Advertising Injury

"Personal and advertising injury":

- (1) Caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury";
- (2) Arising out of oral or written publication, in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity;
- (3) Arising out of oral or written publication, in any manner, of material whose first publication took place before the beginning of the policy period;
- (4) For which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement;
- (5) Arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement";
- (6) Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement";
- (7) Arising out of the wrong description of the price of goods, products or services stated in your "advertisement";
- (8) Committed by an insured whose business is:
 - (a) Advertising, broadcasting, publishing or telecasting;
 - (b) Designing or determining content of web sites for others; or
 - (c) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs 14.a., b. and c. of "personal and advertising injury" under Paragraph F. Liability And Medical Expenses Definitions.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, by itself, is not considered the business of advertising, broadcasting, publishing or telecasting;

- (9) Arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time;
 - (10) With respect to any loss, cost or expense arising out of any:
 - (a) Request, demand or order that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
 - (b) Claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants";
 - (11) Arising out of an electronic chatroom or bulletin board the insured hosts, owns or over which the insured exercises control;
 - (12) Arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights. Under this exclusion, such other intellectual property rights do not include the use of another's advertising idea in your "advertisement".
- However, this exclusion does not apply to infringement, in your "advertisement", of copyright, trade dress or slogan;
- (13) Arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatags, or any other similar tactics to mislead another's potential customers.

q. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

However, this exclusion does not apply to liability for damages because of "bodily injury".

As used in this exclusion, electronic data means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive, process, store, retrieve or send data.

r. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

s. Recording And Distribution Of Material Or Information In Violation Of Law

"Bodily injury", "property damage" or "personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transaction Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

Exclusions c., d., e., f., g., h., i., k., l., m., n. and o. in Section II – Liability do not apply to damage by fire to premises while rented to you, or temporarily occupied by you with permission of the owner. A separate Damage To Premises Rented To You Limit of Insurance applies to this coverage as described in Paragraph D. Liability And Medical Expenses Limits of Insurance in Section II – Liability.

2. Applicable To Medical Expenses Coverage

We will not pay expenses for "bodily injury":

- a. To any insured, except "volunteer workers".
- b. To a person hired to do work for or on behalf of any insured or a tenant of any insured.
- c. To a person injured on that part of premises you own or rent that the person normally occupies.
- c. To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.
- e. To a person injured while practicing, instructing or participating in any physical exercises or games, sports or athletic contests.
- f. Included within the "products-completed operations hazard".
- g. Excluded under Business Liability Coverage.

3. Applicable To Both Business Liability Coverage And Medical Expenses Coverage - Nuclear Energy Liability Exclusion

This insurance does not apply:

- a. Under Business Liability Coverage, to "bodily injury" or "property damage":
 - (1) With respect to which an insured under the policy is also an insured under a nuclear energy liability policy issued by the Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or

- (2) Resulting from the "hazardous properties" of "nuclear material" and with respect to which:
- (a) Any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof; or
 - (b) The insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
- b. Under Medical Expenses Coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear material" and arising out of the operation of a "nuclear facility" by any person or organization.
- c. Under Business Liability Coverage, to "bodily injury" or "property damage" resulting from the "hazardous properties" of the "nuclear material"; if:
- (1) The "nuclear material":
 - (a) Is at any "nuclear facility" owned by, or operated by or on behalf of, an insured; or
 - (b) Has been discharged or dispersed therefrom;
 - (2) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an insured; or
 - (3) The "bodily injury" or "property damage" arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility"; but if such facility is located within the United States of America, its territories or possessions or Canada, this Exclusion (3) applies only to "property damage" to such "nuclear facility" and any property thereat.
- d. As used in this exclusion:
- (1) "By-product material" has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof;
 - (2) "Hazardous properties" include radioactive, toxic or explosive properties;
 - (3) "Nuclear facility" means:
 - (a) Any "nuclear reactor";
 - (b) Any equipment or device designed or used for:
 - (i) Separating the isotopes of uranium or plutonium;
 - (ii) Processing or utilizing "spent fuel"; or
 - (iii) Handling, processing or packaging "waste";
 - (c) Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
 - (d) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of "waste";

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;
 - (4) "Nuclear material" means "source material", "special nuclear material" or "by-product material";
 - (5) "Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;
 - (6) "Property damage" includes all forms of radioactive contamination of property;
 - (7) "Source material" has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof;
 - (8) "Special nuclear material" has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof;
 - (9) "Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor";

(10) "Waste" means any waste material:

- (a) Containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content; and**
- (b) Resulting from the operation by any person or organization of any "nuclear facility" included under Paragraphs (a) and (b) of the definition of "nuclear facility".**

C. Who Is An Insured

1. If you are designated in the Declarations as:

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.**
- b. A partnership or joint venture, you are an insured. Your members, your partners and their spouses are also insureds, but only with respect to the conduct of your business.**
- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.**
- d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.**
- e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.**

2. Each of the following is also an insured:

- a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:**

(1) "Bodily injury" or "personal and advertising injury":

- (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), or to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;**
- (b) To the spouse, child, parent, brother or sister of that co-"employee" as a consequence of Paragraph (a) above;**
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (a) or (b); or**
- (d) Arising out of his or her providing or failing to provide professional health care services.**

(2) "Property damage" to property:

- (a) Owned, occupied or used by;**

(b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

b. Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

c. Any person or organization having proper temporary custody of your property if you die, but only:

(1) With respect to liability arising out of the maintenance or use of that property; and

(2) Until your legal representative has been appointed.

d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this policy.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

D. Liability And Medical Expenses Limits Of Insurance

1. The Limits of Insurance of Section II – Liability shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

a. Insureds;

b. Claims made or "suits" brought; or

c. Persons or organizations making claims or bringing "suits".

2. The most we will pay for the sum of all damages because of all:

a. "Bodily injury", "property damage" and medical expenses arising out of any one "occurrence"; and

b. "Personal and advertising injury" sustained by any one person or organization;

is the Liability and Medical Expenses limit shown in the Declarations. But the most we will pay for all medical expenses because of "bodily injury" sustained by any one person is the Medical Expenses limit shown in the Declarations.

3. The most we will pay under Business Liability Coverage for damages because of "property damage" to a premises while rented to you or in the case of fire while rented to you or temporarily occupied by you with permission of the owner is the applicable Damage To Premises Rented To You limit shown for that premises in the Declarations. For a premises temporarily occupied by you, the applicable limit will be the highest Damage To Premises Rented To You limit shown in the Declarations.

4. Aggregate Limits

The most we will pay for:

a. All "bodily injury" and "property damage" that is included in the "products-completed operations hazard" is twice the Liability and Medical Expenses limit.

b. All:

(1) "Bodily injury" and "property damage" except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard";

(2) Plus medical expenses;

(3) Plus all "personal and advertising injury" caused by offenses committed;

is twice the Liability and Medical Expenses limit.

Subject to Paragraph a. or b. above, whichever applies, the Damage To Premises Rented To You limit is the most we will pay for damages because of "property damage" to any one premises, while rented to you, or in the case of fire, while rented to you or temporarily occupied by you with permission of the owner.

The Limits of Insurance of Section II – Liability apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

E. Liability And Medical Expenses General Conditions

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this policy.

2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

b. If a claim is made or "suit" is brought against any insured, you must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.

c. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization that may be liable to the insured because of injury or damage to which this insurance may also apply.

d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

3. Legal Action Against Us

No person or organization has a right under this policy:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this policy unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this policy or that are in excess of the applicable Limit of Insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

4. Separation Of Insureds

Except with respect to the Limits of Insurance of Section II – Liability, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

F. Liability And Medical Expenses Definitions

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:

- a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
- b. Regarding web sites, only that part of a web site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.

2. "Auto" means:

- a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
- b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance or motor vehicle registration law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.

4. "Coverage territory" means:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;

b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in Paragraph a. above; or

c. All other parts of the world if the injury or damage arises out of:

(1) Goods or products made or sold by you in the territory described in Paragraph a. above;

(2) The activities of a person whose home is in the territory described in Paragraph a. above, but is away for a short time on your business; or

(3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication;

provided the insured's responsibility to pay damages is determined in a "suit" on the merits in the territory described in Paragraph a. above or in a settlement we agree to.

5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".

6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, bylaws or any other similar governing document.

7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.

8. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:

a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or

b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by:

(1) The repair, replacement, adjustment or removal of "your product" or "your work"; or

(2) Your fulfilling the terms of the contract or agreement.

9. "Insured contract" means:

a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";

b. A sidetrack agreement;

c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;

d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;

e. An elevator maintenance agreement;

f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

(1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;

(2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:

(a) Preparing, approving or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications; or

(b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or

(3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in Paragraph (2) above and supervisory, inspection or engineering services.

10. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

11. "Loading or unloading" means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
- b. While it is in or on an aircraft, watercraft or "auto"; or
- c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

12. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b. Vehicles maintained for use solely on or next to premises you own or rent;
- c. Vehicles that travel on crawler treads;
- d. Vehicles, whether self-propelled or not, on which are permanently mounted:
 - (1) Power cranes, shovels, loaders, diggers or drills; or
 - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e. Vehicles not described in Paragraph a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - (2) Cherry pickers and similar devices used to raise or lower workers;
- f. Vehicles not described in Paragraph a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

(1) Equipment designed primarily for:

- (a) Snow removal;
- (b) Road maintenance, but not construction or resurfacing; or
- (c) Street cleaning;

(2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

(3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance or motor vehicle registration law where they are licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law or motor vehicle registration law are considered "autos".

13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

14. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

- a. False arrest, detention or imprisonment;
- b. Malicious prosecution;
- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
- d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e. Oral or written publication, in any manner, of material that violates a person's right of privacy;

- f. The use of another's advertising idea in your "advertisement"; or
- g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".

15. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

16. "Products-completed operations hazard":

- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
 - (1) Products that are still in your physical possession; or
 - (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
 - (a) When all of the work called for in your contract has been completed.
 - (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
 - (c) When that part of the work done at the job site has been put to its intended use by any other person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

The "bodily injury" or "property damage" must occur away from premises you own or rent, unless your business includes the selling, handling or distribution of "your product" for consumption on premises you own or rent.

- b. Does not include "bodily injury" or "property damage" arising out of:
 - (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured; or
 - (2) The existence of tools, uninstalled equipment or abandoned or unused materials.

17. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, electronic data is not tangible property.

As used in this definition, electronic data means information, facts or programs stored as, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

18. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage", or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

19. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

20. "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

21. "Your product":

- a. Means:
 - (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (a) You;
 - (b) Others trading under your name; or

- (c) A person or organization whose business or assets you have acquired; and
 - (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
 - b. Includes:
 - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
 - (2) The providing of or failure to provide warnings or instructions.
 - c. Does not include vending machines or other property rented to or located for the use of others but not sold.
- 22. "Your work":**
- a. Means:
 - (1) Work or operations performed by you or on your behalf; and
 - (2) Materials, parts or equipment furnished in connection with such work or operations.
 - b. Includes:
 - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
 - (2) The providing of or failure to provide warnings or instructions.

**SECTION III – COMMON POLICY CONDITIONS
(APPLICABLE TO SECTION I – PROPERTY AND
SECTION II – LIABILITY)**

A. Cancellation

- 1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
- 2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
 - a. Five days before the effective date of cancellation if any one of the following conditions exists at any building that is Covered Property in this policy:
 - (1) The building has been vacant or unoccupied 60 or more consecutive days. This does not apply to:
 - (a) Seasonal unoccupancy; or
 - (b) Buildings in the course of construction, renovation or addition.

Buildings with 65% or more of the rental units or floor area vacant or unoccupied are considered unoccupied under this provision.

- (2) After damage by a Covered Cause of Loss, permanent repairs to the building:
 - (a) Have not started; and
 - (b) Have not been contracted for; within 30 days of initial payment of loss.
- (3) The building has:
 - (a) An outstanding order to vacate;
 - (b) An outstanding demolition order; or
 - (c) Been declared unsafe by governmental authority.
- (4) Fixed and salvageable items have been or are being removed from the building and are not being replaced. This does not apply to such removal that is necessary or incidental to any renovation or remodeling.
- (5) Failure to:
 - (a) Furnish necessary heat, water, sewer service or electricity for 30 consecutive days or more, except during a period of seasonal unoccupancy; or
 - (b) Pay property taxes that are owing and have been outstanding for more than one year following the date due, except that this provision will not apply where you are in a bona fide dispute with the taxing authority regarding payment of such taxes.

- b. 10 days before the effective date of cancellation if we cancel for nonpayment of premium.
- c. 30 days before the effective date of cancellation if we cancel for any other reason.

- 3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
- 4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
- 5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.

6. If notice is mailed, proof of mailing will be sufficient proof of notice.

B. Changes

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

C. Concealment, Misrepresentation Or Fraud

This policy is void in any case of fraud by you as it relates to this policy at any time. It is also void if you or any other insured, at any time, intentionally conceals or misrepresents a material fact concerning:

1. This policy;
2. The Covered Property;
3. Your interest in the Covered Property; or
4. A claim under this policy.

D. Examination Of Your Books And Records

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

E. Inspections And Surveys

1. We have the right to:
 - a. Make inspections and surveys at any time;
 - b. Give you reports on the conditions we find; and
 - c. Recommend changes.
2. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:
 - a. Are safe and healthful; or
 - b. Comply with laws, regulations, codes or standards.
3. Paragraphs 1. and 2. of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

4. Paragraph 2. of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

F. Insurance Under Two Or More Coverages

If two or more of this policy's coverages apply to the same loss or damage, we will not pay more than the actual amount of the loss or damage.

G. Liberalization

If we adopt any revision that would broaden the coverage under this policy without additional premium within 45 days prior to or during the policy period, the broadened coverage will immediately apply to this policy.

H. Other Insurance

1. If there is other insurance covering the same loss or damage, we will pay only for the amount of covered loss or damage in excess of the amount due from that other insurance, whether you can collect on it or not. But we will not pay more than the applicable Limit of Insurance of Section I – Property.
2. Business Liability Coverage is excess over:
 - a. Any other insurance that insures for direct physical loss or damage; or
 - b. Any other primary insurance available to you covering liability for damages arising out of the premises or operations for which you have been added as an additional insured.
3. When this insurance is excess, we will have no duty under Business Liability Coverage to defend any claim or "suit" that any other insurer has a duty to defend. If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

I. Premiums

1. The first Named Insured shown in the Declarations:
 - a. Is responsible for the payment of all premiums; and
 - b. Will be the payee for any return premiums we pay.
2. The premium shown in the Declarations was computed based on rates in effect at the time the policy was issued. On each renewal, continuation or anniversary of the effective date of this policy, we will compute the premium in accordance with our rates and rules then in effect.

3. With our consent, you may continue this policy in force by paying a continuation premium for each successive one-year period. The premium must be:

- a. Paid to us prior to the anniversary date; and
- b. Determined in accordance with Paragraph 2. above.

Our forms then in effect will apply. If you do not pay the continuation premium, this policy will expire on the first anniversary date that we have not received the premium.

4. Undeclared exposures or change in your business operation, acquisition or use of locations may occur during the policy period that are not shown in the Declarations. If so, we may require an additional premium. That premium will be determined in accordance with our rates and rules then in effect.

J. Premium Audit

1. This policy is subject to audit if a premium designated as an advance premium is shown in the Declarations. We will compute the final premium due when we determine your actual exposures.
2. Premium shown in this policy as advance premium is a deposit premium only. At the close of each audit period, we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
3. The first Named Insured must keep records of the information we need for premium computation and send us copies at such times as we may request.

K. Transfer Of Rights Of Recovery Against Others To Us

1. **Applicable to Businessowners Property Coverage:**
If any person or organization to or for whom we make payment under this policy has rights to recover damages from another, those rights are transferred to us to the extent of our payment. That person or organization must do everything necessary to secure our rights and must do nothing after loss to impair them. But you may waive your rights against another party in writing:
 - a. Prior to a loss to your Covered Property.

- b. After a loss to your Covered Property only if, at time of loss, that party is one of the following:

- (1) Someone insured by this insurance;
- (2) A business firm:
 - (a) Owned or controlled by you; or
 - (b) That owns or controls you; or
- (3) Your tenant.

You may also accept the usual bills of lading or shipping receipts limiting the liability of carriers.

This will not restrict your insurance.

2. Applicable to Businessowners Liability Coverage:

If the insured has rights to recover all or part of any payment we have made under this policy, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

L. Transfer Of Your Rights And Duties Under This Policy

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual Named Insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

BUSINESSOWNERS

BP 04 17 01 10

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EMPLOYMENT-RELATED PRACTICES EXCLUSION

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

The following exclusion is added to Paragraph B.1.
Exclusions - Applicable To Business Liability Coverage
in Section II - Liability:

This insurance does not apply to "bodily injury" or "personal and advertising injury" to:

(1) A person arising out of any:

- (a) Refusal to employ that person;
- (b) Termination of that person's employment; or
- (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious prosecution directed at that person; or

- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" or "personal and advertising injury" to that person at whom any of the employment-related practices described in Paragraph (a), (b) or (c) above is directed.

This exclusion applies:

- (1) Whether the injury-causing event described in paragraph (a), (b) or (c) above occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

**BUSINESSOWNERS
BP 05 01 07 02**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CALCULATION OF PREMIUM

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

The following is added:

The premium shown in the Declarations was computed based on rates in effect at the time the policy was issued. On each renewal, continuation, or anniversary of the effective date of this policy, we will compute the premium in accordance with our rates and rules then in effect.

BUSINESSOWNERS

BP 05 17 01 06

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - SILICA OR SILICA-RELATED DUST

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

- A. The following exclusion is added to Paragraph B. Exclusions in Section II - Liability:**

B. Exclusions

This insurance does not apply to:

SILICA OR SILICA-RELATED DUST

1. "Bodily injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, or ingestion of, "silica" or "silica-related dust".
2. "Property damage" arising, in whole or in part, out of the actual, alleged, threatened or suspected contact with, exposure to, existence of, or presence of, "silica" or "silica related dust".
3. "Personal and advertising injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, "silica" or "silica-related dust".

4. Any loss, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to or assessing the effects of, "silica" or "silica-related dust", by any insured or by any other person or entity.

- B. The following definitions are added to Paragraph F. Liability And Medical Expenses Definitions in Section II - Liability:**

1. "Silica" means silicon dioxide, (occurring in crystalline, amorphous and impure forms), silica particles, silica dust or silica compounds.
2. "Silica-related dust" means a mixture or combination of silica and other dust or particles.

**BUSINESSOWNERS
BP 05 23 01 15**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**CAP ON LOSSES FROM CERTIFIED
ACTS OF TERRORISM**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

The following provisions are added to the Businessowners Policy and apply to Property and Liability Coverages:

A. CAP ON CERTIFIED TERRORISM LOSSES

"Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in accordance with the provisions of the federal Terrorism Risk Insurance Act, to be an act of terrorism pursuant to such Act. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:

1. The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and
2. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

If aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a calendar year and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

- B.** The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for loss or injury or damage that is otherwise excluded under this Policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

FUNGI OR BACTERIA EXCLUSION (LIABILITY)

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

The following provisions are added to **Section II - Liability**:

A. The following exclusion is added to Paragraph B.1., Exclusions - Applicable To Business Liability Coverage:

t. Fungi Or Bacteria

- (1) "Bodily injury", "property damage" or "personal and advertising injury" which would not have occurred, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any "fungi" or bacteria on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury or damage.

- (2) Any loss, cost or expenses arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of, "fungi" or bacteria, by any insured or by any other person or entity.

This exclusion does not apply to any "fungi" or bacteria that are, are on, or are contained in, a good or product intended for bodily consumption.

B. The following definition is added Paragraph F. Liability And Medical Expenses Definitions:

1. "Fungi" means any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents or by-products produced or released by fungi.

**BUSINESSOWNERS
BP 15 04 05 14**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EXCLUSION – ACCESS OR DISCLOSURE OF
CONFIDENTIAL OR PERSONAL INFORMATION AND
DATA-RELATED LIABILITY – WITH LIMITED
BODILY INJURY EXCEPTION**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

- A. Exclusion B.1.q. of Section II – Liability is replaced by the following:**

This insurance does not apply to:

q. Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability

- (1) Damages, other than damages because of "personal and advertising injury", arising out of any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or**
- (2) Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.**

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in Paragraph (1) or (2) above.

However, unless Paragraph (1) above applies, this exclusion does not apply to damages because of "bodily injury".

As used in this exclusion, electronic data means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive, process, store, retrieve or send data.

**B. The following is added to Paragraph B.1.p.
Personal And Advertising Injury Exclusion of
Section II – Liability:**

This insurance does not apply to:

p. Personal And Advertising Injury

"Personal and advertising injury":

Arising out of any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of any access to or disclosure of any person's or organization's confidential or personal information.

BUSINESSOWNERS COVERAGE FORM INDEX

This index is provided only as a convenience. It should not be assumed to provide a reference to every provision that can affect a question, claim or coverage. To determine the full scope of coverage and pertinent restrictions and exclusions, the policy (including endorsements) must be read in its entirety. The features may also be affected by related provisions not referenced at all in the index, or noted elsewhere in it. For instance, an **Exclusion** feature addresses a specific policy exclusion; but restrictions of coverage and exclusions also appear within the areas where coverage, covered causes of loss, etc., are described.

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AMENDATORY ENDORSEMENT

This insurance does not apply under any of the coverages to damages arising out of:

- a. **misconduct** by an insured, or
- b. the liability of the insured for the **misconduct** of another insured or any other person.

The following definition is added:

Misconduct as used in this any person.



Wadena Insurance
BUSINESSOWNERS POLICY CHANGES

INSURED COPY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Account No: ACP0P5350

Policy No: WOP5350

Agent Number: 660019

Named Insured:
 KENNETH SEIFERT
 DBA THE HAIR PLACE
 609 2ND ST
 KENYON, MN 55946

Agent:
 SAFEWAY AGENCY, INC
 34 W MAIN ST
 PO BOX 245
 DODGE CENTER, MN 55927

THIS ENDORSEMENT FORMS A PART OF THE POLICY NUMBERED ABOVE.

Policy Period: Effective from 05/07/2019 to 05/07/2020
 Effective Date of Change: 04/14/2020

The amendments below result in a change in the premium as follows: **No Premium Change**

REMOVAL PERMIT If Covered Property is removed to a new location that is described on this Policy Change, you may extend this insurance to include that Covered Property at each location during the removal. Coverage at each location will apply in the proportion that the value at each location bears to the value of all Covered Property being removed. This permit applies up to 10 days after the effective date of this Policy Change; after that, this insurance does not apply at the previous location.

POLICY CHANGES ENDORSEMENT DESCRIPTION

Date Printed: April 17, 2020

As of the effective date of change, the attached declarations replace any declarations issued prior to the date printed.

<u>Description</u>	<u>Prior Value</u>	<u>Current Value</u>
Deleted: Mortgagee for Location 1 609 2ND ST KENYON MN 55946 Building 1 - Barber Shops		
Name1	SECURITY STATE BANK OF KENYON	
Address1	602 2ND ST	
Address2	KENYON MN 55946	
Interest	MORTGAGEE	



Wadena Insurance
BUSINESSOWNERS
DECLARATIONS

Amendment
 Effective: 04/14/2020

INSURED COPY

Account No: ACP0P5350
 Policy No: WOP5350
 Previous Policy No:

Agent Number: 660019

Named Insured:
 KENNETH SEIFERT
 DBA THE HAIR PLACE
 609 2ND ST
 KENYON, MN 55946

Agent:
 SAFEWAY AGENCY, INC
 34 W MAIN ST
 PO BOX 245
 DODGE CENTER, MN 55927

Policy Period: From 05/07/2019 to 05/07/2020 12:01 A.M. Standard Time at your mailing address shown above.

Form Of Business: Individual

Insured's Business: BARBER SHOP

**IN RETURN FOR YOUR PAYMENT OF THE REQUIRED PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY,
 WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.**

PREMIUM SUMMARY

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Building/Business Personal Property Premium Includes Business Income and Extra Expense	\$722
Additional/Optional Property Coverages (Premises Level) Premium Including: Equipment Breakdown Property Ultra Plus	\$206
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ADVANCED PREMIUM	\$987

Date Issued: 04/17/2020

Countersignature

Date



**BUSINESSOWNERS
DECLARATIONS
SCHEDULE OF INSUREDS**

Policy No: WOP5350
Policy Period:
From 05/07/2019 to 05/07/2020

INSURED NAMES

Individual

KENNETH SEIFERT

DBA THE HAIR PLACE



**BUSINESSOWNERS
DECLARATIONS
ENDORSEMENT SCHEDULE**

Policy No: WOP5350
Policy Period:
From 05/07/2019 to 05/07/2020

ENDORSEMENT NUMBER AND EDITION DATE	ENDORSEMENT TITLE
BP IN 01 07 13	Businessowners Coverage Form Index
BP 00 03 07 13	Businessowners Coverage Form
ML 60 22 06 94	Amendatory Endorsement
BO 08 01 07 13	Barber Shops And Hair Salons Professional Liability
BP 05 01 07 02	Calculation Of Premium
BP 05 23 01 15	Cap On Losses From Certified Acts Of Terrorism
BP 05 47 07 13	Computer Fraud And Funds Transfer Fraud
BP 05 15 01 15	Disclosure Pursuant To Terrorism Risk Insurance Act
BP 04 17 01 10	Employment-Related Practices Exclusion
BO 60 50 01 11	Equipment Breakdown Coverage
BP 15 04 05 14	Exclusion - Access Or Disclosure Of Confidential Or Personal Information And Data-Related Liability - With Limited Bodily Injury Exception
BO 60 02 01 11	Exclusion - Asbestos Or Asbestos Products
BO 60 22 01 11	Exclusion - Cosmetic Damage To Roof Coverings And Siding
BO 60 04 01 11	Exclusion - Punitive Damages
BP 05 17 01 06	Exclusion - Silica Or Silica-Related Dust
BO 60 84 05 16	Exclusion - Unmanned Aircraft
BP 05 77 01 06	Fungi Or Bacteria Exclusion (Liability)
BO 60 52 01 11	Identity Recovery Coverage - Identity Theft Case Management Service And Expense Reimbursement
BO 60 03 01 11	Lead Liability Exclusion
BO 01 25 03 15	Minnesota Changes
BP 04 46 07 13	Ordinance Or Law Coverage
BP 04 46 SC 05 16	Ordinance Or Law Schedule
BO 60 37 05 16	Property Ultra Plus
BP 04 56 07 13	Utility Services - Direct Damage
BP 04 56 SC 05 16	Utility Services - Direct Damage Schedule
BP 04 57 07 13	Utility Services - Time Element
BP 04 57 SC 05 16	Utility Services - Time Element Schedule



**BUSINESSOWNERS
DECLARATIONS
ENDORSEMENT SCHEDULE**

Policy No: WOP5350
Policy Period:
From 05/07/2019 to 05/07/2020

ENDORSEMENT NUMBER AND EDITION DATE	ENDORSEMENT TITLE
ML 7000 MN 02 19	Wadena Insurance Company - Amendatory Endorsement
BP 04 53 07 13	Water Back-Up And Sump Overflow
BP 04 53 SC 01 14	Water Back-Up And Sump Overflow Schedule



BUSINESSOWNERS DECLARATIONS

Policy No: WOP5350
Policy Period:
From 05/07/2019 to 05/07/2020

SECTION I - PROPERTY

Coverage is provided only where a premium or Limit of Insurance is shown.

Loc. No.	Location	Territory	Protection Class
1	609 2ND ST, KENYON, MN 55946	702	05

Loc. 1 - Deductibles (Apply Per Occurrence)

Property Deductible	Optional Coverage Deductible*	Windstorm or Hail Deductible
\$500	\$500	N/A

*Optional Coverage Deductible applies to Employee Dishonesty, Forgery Or Alteration, Money & Securities and Outdoor Signs.

Loc. 1 - Additional/Optional Property Coverages Premises Level

Coverage	Premium
Business Income From Dependent Properties* - \$10,000	Included
Secondary Dependent Properties - Included	
Equipment Breakdown	\$81
Property Ultra Plus	\$125
Water Back-Up and Sump Overflow*	Included
Additional/Optional Property Coverages Premises Level Premium	\$206

*Base limit included in an enhancement or PAK endorsement.



**BUSINESSOWNERS
DECLARATIONS
SECTION I - PROPERTY**

Policy No: WOP5350
Policy Period:
From 05/07/2019 to 05/07/2020

Bldg. No. 1 **Year Built** 1950 **Construction** Non-Combustible

Sprinkler No **Occupancy** Occupant

Class Code 71332 **Class Description** Barber Shops

Bldg. 1 - Property

	Limit of Insurance	Valuation	Automatic Incr. Bldg Limit	BPP- Seasonal Incr.	Premium
Building	\$221,340	Replacement Cost	2%	NA	\$673
Business Personal Property	\$8,900	Replacement Cost	NA	25%	\$49
Total Building and Business Personal Property Premium					\$722

Bldg. 1 - Additional/Optional Property Coverages Building Level

Coverage	Premium
Ordinance or Law *	Included
Utility Services - Direct Damage *	Included
Utility Services - Time Element *	Included
Total Additional/Optional Property Coverages Building Level Premium	\$0

*Base limit included in an enhancement or PAK endorsement.

Policy-Wide Additional/Optional Property Coverages

Coverage	Premium
Computer Fraud and Funds Transfer Fraud *	Included
Identity Recovery	Included
Total Policy-Wide Additional/Optional Property Coverages Premium	\$0

*Base limit included in an enhancement or PAK endorsement.



BUSINESSOWNERS DECLARATIONS

Policy No: WOP5350
Policy Period:
From 05/07/2019 to 05/07/2020

SECTION II - LIABILITY

Coverage is provided only where a premium or Limit of Insurance is shown.

LIABILITY AND MEDICAL EXPENSES COVERAGES AND LIMITS

Policy-Wide Liability Coverages	Limit Of Insurance	Advanced Premium
Liability And Medical Expenses	\$1,000,000 Per Occurrence	
Medical Expenses	\$5,000 Per Person	
Damage To Premises Rented To You	\$100,000 Any One Premise	
Other Than Products/Completed Operations Aggregate	\$2,000,000	
Products/Completed Operations Aggregate	\$2,000,000	
(This coverage does not apply to Professional Liability.)		
TOTAL ADVANCED LIABILITY PREMIUM		\$33

LIABILITY EXPOSURE BASIS (All classifications based on payroll or sales are subject to audit.)

Loc #	Bldg #	Class Code	Classification	Estimated Premium Basis
1	1	71332	Barber Shops	\$8,900 (L)

Key to premium basis: (S) Sales, (P) Payroll and (L) Limit of Insurance

ADDITIONAL LIABILITY COVERAGES

Coverages Applicable Per Policy

Coverage	Premium
Barber Shops And Hair Salons Professional Liability - 1 Barbers	\$26

TOTAL ADDITIONAL LIABILITY COVERAGES PREMIUM \$26

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Kenneth Seifert d/b/a The Hair Place and
Harmar Barbers, Inc., individually and on
behalf of all others similarly situated,

Civil File No: 20-cv-01102 JRT/DTS

Plaintiffs,

v.

IMT Insurance Company,

Defendant.

**EXHIBIT C TO DEFENDANT'S
MOTION TO DISMISS**



Wadena Insurance
BUSINESSOWNERS
DECLARATIONS
 Renewal

INSURED COPY
 Account No: ACP0P5335
 Policy No: WOP5335
 Previous Policy No:

Agent Number: 660019

Named Insured:
 HARMAR BARBERS
 609 2ND ST
 KENYON, MN 55946

Agent:
 SAFEWAY AGENCY, INC
 34 W MAIN ST
 PO BOX 245
 DODGE CENTER, MN 55927

Policy Period: From **05/07/2020** to **05/07/2021** 12:01 A.M. Standard Time at your mailing address shown above.

Form Of Business: Corporation

Insured's Business: BARBER

**IN RETURN FOR YOUR PAYMENT OF THE REQUIRED PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY,
 WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.**

PREMIUM SUMMARY

Section I - Property	
Building/Business Personal Property Premium Includes Business Income and Extra Expense	\$67
Additional/Optional Property Coverages (Premises Level) Premium Including: Equipment Breakdown Property Ultra Plus	\$150
Additional/Optional Property Coverages (Policy Level) Premium Including: Identity Recovery	Included
Section II - Liability	
Premises Liability Premium	\$35
Additional/Optional Liability Coverages Including: Barber Shops And Hair Salons Professional Liability Employment Practices Liability Coverage	\$156
ADVANCED PREMIUM - MINIMUM PREMIUM	\$550

This is a true and certified copy of the policy term shown.

The premium for certain coverages apply in addition to the minimum premium.

_____ Countersignature	_____ Date
Date Issued: 03/23/2020	

A handwritten signature in blue ink, appearing to read 'Jen Widen', is written over the signature line.



Wadena Insurance
BUSINESSOWNERS
DECLARATIONS
Renewal

INSURED COPY

Account No: ACP0P5335

Policy No: WOP5335

Previous Policy No:

Agent Number: 660019

Named Insured:
HARMAR BARBERS
609 2ND ST
KENYON, MN 55946

Agent:
SAFEWAY AGENCY, INC
34 W MAIN ST
PO BOX 245
DODGE CENTER, MN 55927

Policy Period: From **05/07/2020** to **05/07/2021** 12:01 A.M. Standard Time at your mailing address shown above.

Form Of Business: Corporation

Insured's Business: BARBER

**IN RETURN FOR YOUR PAYMENT OF THE REQUIRED PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY,
WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.**

PREMIUM SUMMARY	
Section I - Property	
Building/Business Personal Property Premium	\$67
Includes Business Income and Extra Expense	
Additional/Optional Property Coverages (Premises Level) Premium	\$150
Including: Equipment Breakdown	
Property Ultra Plus	
Additional/Optional Property Coverages (Policy Level) Premium	Included
Including: Identity Recovery	
Section II - Liability	
Premises Liability Premium	\$35
Additional/Optional Liability Coverages	\$156
Including: Barber Shops And Hair Salons Professional Liability	
Employment Practices Liability Coverage	
ADVANCED PREMIUM - MINIMUM PREMIUM	\$550

This is a true and certified copy of the policy term shown.

The premium for certain coverages apply in addition to the minimum premium.

Countersignature

Date

Date Issued: 03/23/2020



**BUSINESSOWNERS
DECLARATIONS
SCHEDULE OF INSUREDS**

Policy No: WOP5335
Policy Period:
From 05/07/2020 to 05/07/2021

INSURED NAMES

Corporation

HARMAR BARBERS



**BUSINESSOWNERS
DECLARATIONS
ENDORSEMENT SCHEDULE**

Policy No: WOP5335
Policy Period:
From 05/07/2020 to 05/07/2021

ENDORSEMENT NUMBER AND EDITION DATE	ENDORSEMENT TITLE
BP IN 01 07 13	Businessowners Coverage Form Index
BP 00 03 07 13	Businessowners Coverage Form
BP 04 02 07 13	Additional Insured - Managers Or Lessors Of Premises
ML 60 22 06 94	Amendatory Endorsement
BO 08 01 07 13	Barber Shops And Hair Salons Professional Liability
BP 05 01 07 02	Calculation Of Premium
BP 05 23 01 15	Cap On Losses From Certified Acts Of Terrorism
BP 05 47 07 13	Computer Fraud And Funds Transfer Fraud
BP 05 64 01 15	Conditional Exclusion Of Terrorism (Relating To Disposition Of Federal Terrorism Risk Insurance Act)
BP 05 15 01 15	Disclosure Pursuant To Terrorism Risk Insurance Act
BO 60 46 01 11	Employment Practices Liability Insurance Coverage Endorsement
BP 04 17 01 10	Employment-Related Practices Exclusion
BO 60 50 01 11	Equipment Breakdown Coverage
BP 15 04 05 14	Exclusion - Access Or Disclosure Of Confidential Or Personal Information And Data-Related Liability - With Limited Bodily Injury Exception
BO 60 02 01 11	Exclusion - Asbestos Or Asbestos Products
BO 60 04 01 11	Exclusion - Punitive Damages
BP 05 17 01 06	Exclusion - Silica Or Silica-Related Dust
BO 60 84 05 16	Exclusion - Unmanned Aircraft
BP 05 77 01 06	Fungi Or Bacteria Exclusion (Liability)
BO 60 52 01 11	Identity Recovery Coverage - Identity Theft Case Management Service And Expense Reimbursement
BO 60 03 01 11	Lead Liability Exclusion
BO 01 25 03 15	Minnesota Changes
BO 60 37 05 16	Property Ultra Plus
BP 04 56 07 13	Utility Services - Direct Damage
BP 04 56 SC 05 16	Utility Services - Direct Damage Schedule
BP 04 57 07 13	Utility Services - Time Element
BP 04 57 SC 05 16	Utility Services - Time Element Schedule



**BUSINESSOWNERS
DECLARATIONS
ENDORSEMENT SCHEDULE**

Policy No: WOP5335
Policy Period:
From 05/07/2020 to 05/07/2021

ENDORSEMENT NUMBER AND EDITION DATE	ENDORSEMENT TITLE
ML 7000 MN 02 19	Wadena Insurance Company - Amendatory Endorsement
BP 04 53 07 13	Water Back-Up And Sump Overflow
BP 04 53 SC 01 14	Water Back-Up And Sump Overflow Schedule

**BUSINESSOWNERS
DECLARATIONS**Policy No: WOP5335
Policy Period:
From 05/07/2020 to 05/07/2021**SECTION I - PROPERTY**

Coverage is provided only where a premium or Limit of Insurance is shown.

Loc. No.	Location	Territory	Protection Class
1	2100 N SNELLING STE 171, ROSEVILLE, MN 55113	706	02

Loc. 1 - Deductibles (Apply Per Occurrence)

Property Deductible	Optional Coverage Deductible*	Windstorm or Hail Deductible
\$500	\$500	N/A

*Optional Coverage Deductible applies to Employee Dishonesty, Forgery Or Alteration, Money & Securities and Outdoor Signs.

Loc. 1 - Additional/Optional Property Coverages Premises Level

Coverage	Premium
Business Income From Dependent Properties* - \$10,000	Included
Secondary Dependent Properties - Included	
Equipment Breakdown	\$25
Property Ultra Plus	\$125
Water Back-Up and Sump Overflow *	Included
Additional/Optional Property Coverages Premises Level Premium	\$150

*Base limit included in an enhancement or PAK endorsement.



**BUSINESSOWNERS
DECLARATIONS
SECTION I - PROPERTY**

Policy No: WOP5335
Policy Period:
From 05/07/2020 to 05/07/2021

Bldg. No. 1 **Year Built** 1990 **Construction** Non-Combustible **Sprinkler** No **Occupancy** Occupant

Class Code 71332 **Class Description** Barber Shops

Bldg. 1 - Property

	Limit of Insurance	Valuation	Automatic Incr. Bldg Limit	BPP-Seasonal Incr.	Premium
Business Personal Property	\$11,000	Replacement Cost	NA	25%	\$67
Total Building and Business Personal Property Premium					\$67

Bldg. 1 - Additional/Optional Property Coverages Building Level

Coverage	Premium
Utility Services - Direct Damage*	Included
Utility Services - Time Element*	Included
Total Additional/Optional Property Coverages Building Level Premium	\$0

*Base limit included in an enhancement or PAK endorsement.

Policy-Wide Additional/Optional Property Coverages

Coverage	Premium
Computer Fraud and Funds Transfer Fraud*	Included
Identity Recovery	Included
Total Policy-Wide Additional/Optional Property Coverages Premium	\$0

*Base limit included in an enhancement or PAK endorsement.

**BUSINESSOWNERS
DECLARATIONS**Policy No: WOP5335
Policy Period:
From 05/07/2020 to 05/07/2021**SECTION II - LIABILITY**

Coverage is provided only where a premium or Limit of Insurance is shown.

LIABILITY AND MEDICAL EXPENSES COVERAGES AND LIMITS

Policy-Wide Liability Coverages	Limit Of Insurance	Advanced Premium
Liability And Medical Expenses	\$1,000,000 Per Occurrence	
Medical Expenses	\$5,000 Per Person	
Damage To Premises Rented To You	\$100,000 Any One Premise	
Other Than Products/Completed Operations Aggregate	\$2,000,000	
Products/Completed Operations Aggregate	\$2,000,000	
(This coverage does not apply to Professional Liability.)		
TOTAL ADVANCED LIABILITY PREMIUM		\$35

LIABILITY EXPOSURE BASIS (All classifications based on payroll or sales are subject to audit.)

Loc #	Bldg #	Class Code	Classification	Estimated Premium Basis
1	1	71332	Barber Shops	\$11,000 (L)

Key to premium basis: (S) Sales, (P) Payroll and (L) Limit of Insurance

ADDITIONAL LIABILITY COVERAGES**Coverages Applicable Per Policy**

Coverage	Premium
Additional Insured - Managers Or Lessors Of Premises	\$80
Barber Shops And Hair Salons Professional Liability - 1 Barbers	\$26
Employment Practices Liability Coverage	\$50
TOTAL ADDITIONAL LIABILITY COVERAGES PREMIUM	\$156



Policy No: WOP5335

Agent No: 660019

**POLICYHOLDER DISCLOSURE
NOTICE OF TERRORISM
INSURANCE COVERAGE**

Coverage for acts of terrorism is included in your policy. You are hereby notified that under the Terrorism Risk Insurance Act, as amended in 2015, the definition of act of terrorism has changed. As defined in Section 102(1) of the Act: The term "act of terrorism" means any act or acts that are certified by the Secretary of the Treasury, in consultation with the Secretary of Homeland Security, and the Attorney General of the United States - to be an act of terrorism; to be a violent act or an act that is dangerous to human life; property or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of certain air carriers or vessel or the premise of a United States mission; and to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion. Under your coverage, any losses resulting from certified acts of terrorism may be partially reimbursed by the United States Government under a formula established by the Terrorism Risk Insurance Act, as amended. However, your policy may contain other exclusions which might affect your coverage, such as an exclusion for nuclear events. Under the formula, the United States Government generally reimburses 85% through 2015; 84% beginning on January 1, 2016; 83% beginning on January 1, 2017; 82% beginning on January 1, 2018; 81% beginning on January 1, 2019; and 80% beginning on January 1, 2020; of covered terrorism losses exceeding the statutorily established deductible paid by the insurance company providing the coverage. The Terrorism Risk Insurance Act, as amended, contains a \$100 billion cap that limits U.S. Government reimbursement as well as insurer's liability for losses resulting from certified acts of terrorism when the amount of such losses exceeds \$100 billion in any one calendar year. If the aggregate insured losses for all insurers exceed \$100 billion, your coverage may be reduced.

The portion of your annual premium that is attributable to coverage for acts of terrorism is \$0.00, and does not include any charges for the portion of losses covered by the United States Government under the Act.

I ACKNOWLEDGE THAT I HAVE BEEN NOTIFIED THAT UNDER THE TERRORISM RISK INSURANCE ACT, AS AMENDED, ANY LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM UNDER MY POLICY COVERAGE MAY BE PARTIALLY REIMBURSED BY THE UNITED STATES GOVERNMENT AND MAY BE SUBJECT TO A \$100 BILLION CAP THAT MAY REDUCE MY COVERAGE, AND I HAVE BEEN NOTIFIED OF THE PORTION OF MY PREMIUM ATTRIBUTABLE TO SUCH COVERAGE.

Policyholder/Applicant's Signature

Print Name

Date

MINNESOTA FRAUD STATEMENT

Any person who files a claim with intent to defraud or helps commit a fraud against an insurer is guilty of a crime.



IMPORTANT NOTICE

NOTICE TO POLICYHOLDERS POTENTIAL RESTRICTIONS OF TERRORISM COVERAGE

This Notice has been prepared in conjunction with the **POTENTIAL** implementation of changes related to coverage of terrorism under your policy.

The Terrorism Risk Insurance Act established a program (Terrorism Risk Insurance Program) within the Department of the Treasury, under which the federal government shares, with the insurance industry, the risk of loss from future terrorist attacks. That Program is subject to a termination date of December 31, 2020 unless extended by the federal government. If the federal Program terminates, or is extended with certain changes prior to or during the term of your policy, then the treatment of terrorism under your policy will change. This Notice is being provided to you for the purpose of summarizing potential impact on your coverage. The summary is a brief synopsis of significant exclusionary provisions and limitations.

This Notice does not form a part of your insurance contract. The Notice is designed to alert you to coverage restrictions and to other provisions in certain terrorism endorsement(s) in this policy. If there is any conflict between this Notice and the policy (including its endorsements), the provisions of the policy (including its endorsements) apply.

Carefully read your policy, including the endorsements attached to your policy.

YOUR POLICY DURING TENURE OF THE TERRORISM RISK INSURANCE PROGRAM AS THAT PROGRAM EXISTS PURSUANT TO THE TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF 2015:

Except as described below, this policy does not contain a terrorism exclusion. However, the policy contains endorsement BP 05 23 Cap On Losses From Certified Acts Of Terrorism, under which coverage for "certified acts of terrorism" (which is more fully defined in the endorsement but involves an act of terrorism certified by the federal government to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act) is subject to a limit on our liability pursuant to the federal Terrorism Risk Insurance Act. Further, the absence of a terrorism exclusion does not create coverage for any loss, injury or damage that would otherwise be excluded under the policy, such as property losses excluded by the nuclear hazard or war exclusions or liability losses excluded by the war liability exclusion.

POTENTIAL CHANGE TO YOUR POLICY:

Endorsement BP 05 64 Conditional Exclusion Of Terrorism (Relating To Disposition Of Federal Terrorism Risk Insurance Act) is attached to your policy. Its provisions become applicable to your policy only if certain events (one or more of the them) occur. Those events include the following:

If the federal Terrorism Risk Insurance Program (TRIP) terminates with respect to the type of insurance provided under this policy. (TRIP is/was scheduled to terminate at the end of December 31, 2020 unless extended by the federal government.); or

If TRIP is extended with changes that increase insurers' statutory percentage deductible under TRIP for terrorism losses, and we are not required to make such revised coverage available to you. Our deductible is 20% of the total of our previous year's direct earned premiums; or

If TRIP is extended with changes that decrease the federal government's statutory percentage share in potential terrorism losses, and we are not required to make terrorism coverage available to you. The government's share is 80% of the terrorism losses paid by us above the deductible; or

If TRIP is extended with changes that redefine terrorism or make insurance coverage for terrorism subject to provisions or requirements that differ from those that apply to other types of events or occurrences under the policy, and we are not required to make such revised coverage available to you.

Endorsement BP 05 23 treats terrorism as follows:

Coverage for loss or damage under property coverage or injury or damage under liability coverage arising out of a terrorism incident is excluded only if one or more of the following are attributed to the incident of terrorism:

The terrorism event involves nuclear materials or results in nuclear reaction or radiation or radioactive contamination;

The terrorism event involves the release of radioactive material, and it appears that one purpose of the terrorism was to release such material;

The terrorism event is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials;

The terrorism event involves the release of pathogenic or poisonous biological or chemical materials, and it appears that one purpose of the terrorism was to release such materials;

For Property Coverage the total of all insured damage to types of property in the United States, its territories and possessions, Puerto Rico and Canada (including business interruption losses sustained by owners or occupants of damaged property) exceeds \$25 million; or

For Liability Coverage the total of all insured damage to all types of property (including business interruption losses sustained by owners or occupants of damaged property), from the incident, exceeds \$25 million or fifty or more persons sustain death or serious injury.

The Exception Covering Certain Fire Losses applies only in certain states. Refer to the schedule for the applicable states. When the Exception applies, the exclusion of terrorism does not apply to direct loss or damage by fire to covered property, with respect to affected types of insurance in affected states.

See the definition of terrorism for purposes of the terrorism exclusion.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BARBER SHOPS AND HAIR SALONS PROFESSIONAL LIABILITY

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Limits Of Liability - Professional Liability Only	
Per Occurrence Limit	\$1,000,000
Aggregate Limit	\$2,000,000
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

Section II - Liability is amended as follows:

A. For the insurance provided by this endorsement, all provisions under Paragraph **A.1. Business Liability** will also apply to other injury.

B. Paragraph **A. Coverages** also applies to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or failure to render "barber shop or hair salon services" in connection with the operation of your business as a barber shop or hair salon.

C. With respect to the coverage provided by this endorsement, Paragraph **B. Exclusions** is amended as follows:

1. Paragraph **1.b. Contractual Liability** is replaced by the following:

This insurance does not apply to:

b. "Bodily injury", "property damage", "personal and advertising injury" or other injury for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

2. The following exclusions do not apply:

- a.** Paragraph **1.j. Professional Services**;
- b.** Paragraph **1.k.(6) Damage To Property**; and
- c.** Paragraph **1.m. Damage To Your Work**.

3. The following exclusions are added:

This insurance does not apply to "bodily injury", "property damage", "personal and advertising injury" or other injury arising out of:

- a.** The violation of any statute, or governmental rule or regulation; however, this exclusion does not apply to the failure to perform a predisposition of skin test.
- b.** The rendering or failure to render any professional service, treatment, advice or instruction, except for "barber shop or hair salon services".

This exclusion applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved that which is described in Paragraph **a.** or **b.**

D. Paragraph **C. Who Is An Insured** is amended as follows:

1. Paragraph **2.a.** is replaced by the following:

2. Each of the following is also an insured:

- a.** Your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However,

none of these "employees" is an insured for:

(1) "Bodily injury", "personal and advertising injury" or other injury:

(a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), or to a co-"employee" while that co-"employee" is either in the course of his or her employment or performing duties related to the conduct of your business;

(b) To the spouse, child, parent, brother or sister of that co-"employee" as a consequence of Paragraph (1)(a) above;

(c) For which there is any obligation to share damages with or repay someone else who must pay damages of the injury described in Paragraph (1)(a) or (1)(b); or

(2) "Bodily injury", "property damage", "personal and advertising injury" or other injury arising out of his or her providing or failing to provide professional services. However, your "employees" are insureds with respect to their providing or failing to provide "barber shop or hair salon services" in connection with the operation of your business as a barber shop or hair salon.

(3) "Property damage" to property:

(a) Owned, occupied or used by; or

(b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;

you, any of your "employees", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

2. The following is added to Paragraph 2.:

e. Any operator who rents or leases from the insured booth space, chairs or any portion of your premises for the purpose of conducting "barber shop or hair salon services" and any "employee" of such operator, but only with respect to liability arising out of such services.

E. For the insurance provided by this endorsement, Paragraph **D. Liability And Medical Expenses Limits Of Insurance** is replaced by the following:

1. The Limits Of Insurance shown in the Schedule and the rules below fix the most we will pay regardless of the number of:

a. Insureds;

b. Claims made or "suits" brought; or

c. Persons or organizations making claims or bringing "suits".

2. Subject to the Aggregate Limit Of Insurance shown in the Schedule, the most we will pay for the sum of all damages because of all "bodily injury", "property damage", or all other injury arising out of any one "occurrence", or "personal and advertising injury" sustained by any one person or organization, is the per "occurrence" limit shown in the Schedule.

3. The Limits Of Insurance shown in the Schedule apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

F. For the coverage provided by this endorsement, Paragraph **F. Liability And Medical Expenses Definitions** is amended as follows:

1. The definition of "occurrence" is amended to include any act or omission arising out of the rendering of or failure to render "barber shop or hair salon services".

2. The following definition is added:

"Barber shop or hair salon services" means:

a. Haircutting, hairstyling, hair dyeing, hair trimming, hair shaving, hair conditioning, hair shampooing; or

b. Advice or instruction for the purpose of appearance or personal grooming or therapy in connection with any of the services described in a. above.

However, "barber shop or hair salon services" does not include:

a. The removal of, or the attempted removal of, hair by electrolysis;

b. Hair implanting or hair transplanting or any attempt at these; or

- c. The use of any dye or coloring to eyelashes or eyebrows except mascara or eyebrow pencils.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PROPERTY ULTRA PLUS

This endorsement modifies insurance provided under the following.

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Premises Number	Premises Address
1	2100 N SNELLING STE 171, ROSEVILLE, MN 55113

Coverage	Limit Of Insurance	Page
Accounts Receivable:		
On Premises	\$25,000	6
Off Premises	\$5,000	6
Brands And Labels	\$10,000	6
Business Income From Dependent Properties (Including coverage for Secondary Dependent Properties)	\$10,000	4
Claims Expense	\$10,000	4
Computer Fraud And Funds Transfer Fraud	\$5,000 Included in Endorsement BP 05 47	
Credit Card Receipts	\$2,500	6
Employee Dishonesty	\$5,000	7
Extended Business Income	90 Days	3
Fine Arts Coverage	\$10,000	4
Fire Department Service Charge	\$5,000	3

Coverage	Limit Of Insurance	Page
Fire Extinguisher Systems Recharge Expense	\$10,000	4
Forgery Or Alteration	\$5,000	3
Jewelry, Watches, Etc. - Theft Limitation	\$5,000	3
Leased Gap Coverage - Office Equipment	Up To Business Personal Property Limit	7
Lock Replacement	\$5,000	4
Money And Securities: Inside The Premises	\$25,000	7
Outside The Premises	\$5,000	7
Money Orders And Counterfeit Money	\$5,000	3
Newly Acquired Or Constructed Property: Building Coverage Extension	\$500,000	5
Business Personal Property Coverage Extension	\$250,000	5
Period Of Coverage Extension	60 Days	5
Ordinance Or Law (If Building Coverage is provided on premises): Demolition Cost And Increased Cost Of Construction Coverage For Loss To Undamaged Portion Of The Building	Not Applicable	
Outdoor Property: Per Occurrence	\$10,000	5
Per Tree, Shrub Or Plant	\$1,000	5
Outdoor Signs	\$10,000	7
Personal Effects	\$10,000	6
Personal Property In Transit	\$10,000	6
Personal Property Off-premises	\$25,000	5
Pollutant Clean-up And Removal	\$25,000	3
Premises Boundary Redefined - Broadened To 1,000 Feet	Included	3
Reward Payment	\$10,000	4
Salesperson's Samples	\$10,000	5
Unauthorized Business Card Use	\$5,000	5
Utility Service (Provides Water, Communication & Power Supply Services): Direct Damage	\$10,000 Included in Endorsement BP 04 56	
Time Element (Includes Wastewater Removal Property Coverage)	\$10,000 Included in Endorsement BP 04 57	
Valuable Papers And Records On Premises	\$25,000	6
Off Premises	\$10,000	6
Water Back-up And Sump Overflow: Covered Property Annual Aggregate Business Income And Extra Expense Annual Aggregate	Included in Endorsement BP 04 53 \$10,000 \$5,000	
The Schedule above is a summary of the Coverages and the Limits Of Insurance provided by the Businessowners Property Ultra Plus. If higher limits are purchased, the Limit Of Insurance will be shown on the Declarations or on the endorsement referenced for the coverage.		

With respect to coverage provided by this endorsement, the provisions of **Section I - Property**, including Paragraph **D. Deductibles**, of the Businessowners Coverage Form apply, unless modified by this endorsement. The coverage provided by this endorsement applies separately to each premises shown in the Schedule above.

This Additional Coverage applies to your liability for fire department service charges:

(1) Assumed by contract or agreement prior to loss; or

(2) Required by local ordinance.

Section I - Property is amended as follows:

A. Premises Boundary Redefined - Broadened To 1,000 Feet

With respect to the coverage provided by this endorsement, any reference to the distance limitation of within 100 feet of the buildings or structures or within 100 feet of the premises described in the Declarations is amended to read within 1,000 feet of the buildings or structures or within 1,000 feet of the premises described in the Schedule.

B. Jewelry, Watches, Etc. - Theft Limitation

With respect to the coverage provided by this endorsement, Paragraph **4.c.(2) Limitations** is replaced by the following:

- (2) Jewelry, watches, watch movements, jewels, pearls, precious and semiprecious stones, bullion, gold, silver, platinum and other precious alloys or metals is limited to the Jewelry, Watches, Etc. - Theft Limitation limit shown in the Schedule. This limit does not apply to jewelry and watches worth \$100 or less per item.

C. With respect to the coverage provided by this endorsement, Paragraph 5. Additional Coverages under A. Coverages is amended as follows:

1. Fire Department Service Charge

Paragraph **c. Fire Department Service Charge** is replaced by the following:

c. Fire Department Service Charge

When the fire department is called to save or protect Covered Property from a Covered Cause of Loss, we will pay up to the Fire Department Service Charge Limit Of Insurance shown in the Schedule for service at each premises described in the Schedule, unless a different limit is shown in the Declarations. Such limit is the most we will pay for regardless of the number of responding fire departments or fire

2. Extended Business Income

The number of consecutive days for item **f.(2)(a)(ii)ii.** under **Extended Business Income** has been increased to the number of days shown on the Schedule under Extended Business Income, unless a greater number of consecutive days is shown in the Declarations.

3. Pollutant Clean-up And Removal

The last paragraph of item **h. Pollutant Clean-up And Removal** is replaced by the following:

The most we will pay for each location described in the Schedule under this Additional Coverage is the Pollutant Clean-up And Removal Limit Of Insurance shown on the Schedule for the sum of all such expenses arising out of Covered Causes of Loss occurring during each separate 12-month period of this policy.

4. Money Orders And "Counterfeit Money"

The last paragraph of item **j. Money Orders And "Counterfeit Money"** is replaced by the following:

The most we will pay for any loss under this Additional Coverage is the Money Orders And "Counterfeit Money" Limit Of Insurance shown in the Schedule.

5. Forgery Or Alteration

Paragraph **k.(4) Forgery Or Alteration** is replaced by the following:

- (4) The most we will pay for any loss, including legal expenses, under this Additional Coverage is the Forgery Or Alteration Limit Of Insurance shown in the Schedule, unless a higher Limit Of Insurance is shown in the Declarations.

6. Business Income From Dependent Properties

The last paragraph of item **m.(1)** under **Business Income From Dependent Properties** is replaced by the following:

The most we will pay under this Additional Coverage is the Business Income From Dependent Properties Limit Of Insurance shown in the Schedule, unless a higher Limit Of Insurance is indicated in the Declarations.

7. Fire Extinguisher Systems Recharge Expense

Paragraph **o.(3)** under **Fire Extinguisher Systems Recharge Expense** is replaced by the following:

(3) The most we will pay under this Additional Coverage in any one occurrence is the Fire Extinguisher Systems Recharge Expense Limit Of Insurance shown in the Schedule.

D. With respect to the coverage provided by this endorsement, the following items are added to Paragraph **A.5. Additional Coverages**:

s. Claims Expense

We will pay for the reasonable costs you incur, as required by policy conditions, after a covered property loss. This includes the cost of taking inventory, making appraisals and preparing other data to determine the extent of your loss.

We will not pay for fees or expenses you incur from independent or public insurance adjusters or for expenses related to claims not covered by this policy.

The most we will pay for any loss under this Additional Coverage is the Claims Expense Limit Of Insurance shown in the Schedule.

t. Fine Arts Coverage

We will pay for direct loss or damage to Fine Arts, whether owned by you or others, and in your care, custody or control.

Fine arts includes, but is not limited to antiques, paintings, etchings, drawings, tapestries, sculptures and fragile property such as porcelains, china and marble.

The most we will pay for loss in any one occurrence under this Additional Coverage is the Fine Arts Limit Of Insurance shown in the Schedule at each premises listed in the Schedule. Our payment for loss of or damage

to personal property of others will only be for the account of the owner of the property.

The value of fine arts will be the least of the following amounts:

- (1)** The actual cash value of that property at the time of the loss;
- (2)** The cost of reasonably restoring that property to its condition immediately before loss; or
- (3)** The cost of replacing that property with substantially identical property.

In the event of loss, the value of property will be determined as of the time of loss.

In case of loss to any part of a pair or set we will:

- (1)** Repair or replace any part to restore the pair or set to its value before the loss; or
- (2)** Pay the difference between the value of the pair or set before and after the loss.

u. Lock Replacement

We will pay the necessary expenses you incur to replace or rekey locks made necessary due to theft or unauthorized copying of keys, damage to door locks caused by covered theft loss or any other legitimate security concern caused in a covered theft loss.

This insurance does not apply to loss caused by vandalism, wear and tear, or mysterious disappearance of keys.

The most we will pay for loss or damage in any one occurrence under this Additional Coverage is the Lock Replacement Limit Of Insurance shown in the Schedule.

We will not pay for the necessary expenses until the amount of the necessary expenses exceed \$50 for each occurrence.

v. Reward Payment

We will pay for rewards to any person or persons, other than you, your officers, your partners or your employees, for information leading to the arrest and conviction of the person(s) who caused the loss covered under this policy.

The most we will pay per occurrence under this Additional Coverage, regardless of the number of persons involved in providing information, is the Reward Payment Limit Of Insurance shown in the Schedule.

w. Salesperson's Samples

We will pay for loss or damage to samples of your stock in trade and similar property of others, while such property is in the care, custody or control of your salesperson, sales agents, or yourself while acting as a salesperson and while more than 1,000 feet from the premises described in the Schedule.

The most we will pay per occurrence under this Additional Coverage is the Salesperson's Samples Limit Of Insurance shown in the Schedule.

x. Unauthorized Business Card Use

We will pay for your loss that results directly from the theft or unauthorized use of credit, debit or charge cards issued in your business name and used solely for business purposes. However, we will not pay for theft or unauthorized use of credit, debit or charge cards entrusted to others or your employees.

The most we will pay per occurrence under this Additional Coverage is the Unauthorized Business Card Use Limit Of Insurance shown on the Schedule.

E. With respect to the coverage provided by this endorsement, Paragraph **6. Coverage Extensions** under **A. Coverages** is amended as follows:

1. Newly Acquired Or Constructed Property

a. Building Coverage Extension

The last paragraph of item **a.(1) Buildings** is replaced by the following:

The most we will pay for loss or damage under this Extension is the Newly Acquired Or Constructed Property - Building Coverage Extension Limit Of Insurance shown in the Schedule.

b. Business Personal Property Coverage Extension

The last paragraph of item **a.(2) Business Personal Property** is replaced by the following:

The most we will pay for loss or damage under this Extension is the Newly Acquired Or Constructed Property - Business Personal Property Coverage Extension Limit Of Insurance shown in the Schedule.

c. Period Of Coverage Extension

The number of days for item **a.(3)(b) Period Of Coverage** has been increased to the number of days shown on the Schedule under Newly Acquired Or Constructed Property - Period Of Coverage Extension.

2. Personal Property Off-premises

Paragraph **b. Personal Property Off-premises** is replaced by the following:

b. Personal Property Off-premises

You may extend the insurance provided by this policy to apply to your Covered Property, other than "money" and "securities", "valuable papers and records", or accounts receivable, while it is at a premises you do not own, lease or operate. The most we will pay for loss or damage under this Extension is the Personal Property Off-premises Limit Of Insurance shown in the Schedule.

3. Outdoor Property

Paragraph **c. Outdoor Property** is deleted and replaced by the following:

c. Outdoor Property

You may extend the insurance provided by this policy to apply to your outdoor fences, radio and television antennas (including satellite dishes), signs (other than signs attached to buildings), trees, shrubs and plants (other than trees, shrubs or plants which are part of a vegetated roof), including debris removal expense. Loss or damage must be caused by or result from any of the following causes of loss:

- (1) Fire;
- (2) Lightning;
- (3) Explosion
- (4) Riot or Civil Commotion; or
- (5) Aircraft

Subject to all aforementioned terms and limitations of coverage, this Coverage Extension includes the expense of removing from the described premises the debris of trees, shrubs and plants which are the property of others, except in the situation in which you are a tenant and such property is owned by the landlord of the described premises.

4. Personal Effects

The last paragraph of item **d. Personal Effects** is replaced by the following:

The most we will pay for loss or damage under this Extension at each premises listed in the Schedule is the Personal Effects Limit Of Insurance shown in the Schedule.

5. Valuable Papers And Records

Paragraph **e.(3) Valuable Papers And Records** is replaced by the following:

(3) The most we will pay under this Coverage Extension for loss or damage to "valuable papers and records" in any one occurrence at the premises described in the Schedule on this endorsement is the Valuable Papers And Records On Premises Limit shown in the Schedule, unless a higher Limit Of Insurance is shown in the Declarations.

For "valuable papers and records" not at the described premises, the most we will pay is the Valuable Papers And Records Off Premises Limit shown in the Schedule.

6. Accounts Receivable

Paragraph **f.(2) Accounts Receivable** is replaced by the following:

(2) The most we will pay under this Coverage Extension for loss or damage in any one occurrence at the premises described in the Schedule on this endorsement is the Accounts Receivable On Premises Limit

shown in the Schedule, unless a higher Limit Of Insurance is shown in the Declarations.

For accounts receivable not at the described premises, the most we will pay is the Accounts Receivable Off Premises Limit shown in the Schedule.

F. With respect to the coverage provided by this endorsement, the following items are added to Paragraph **A.6. Coverage Extensions**:

h. Brands And Labels

If branded or labeled merchandise that is Covered Property is damaged by a Covered Cause of Loss, we may take all or part of the property at an agreed or appraised value. If so, you may:

- (1) Stamp the word salvage on the merchandise or its containers, if the stamp will not physically damage the merchandise; or
- (2) Remove the brands or labels, if doing so will not physically damage the merchandise. You must relabel the merchandise or its containers to comply with the law.

We will pay reasonable costs you incur to perform the activity described in **h.(1)** or **h.(2)** above. The most we will pay for these costs under this Coverage Extension is the Brands And Labels Limit Of Insurance shown in the Schedule.

i. Credit Card Receipts

You may extend the insurance that applies to Business Personal Property to apply to all sums due to you from the payors of credit card charge receipts, including your normal collection expenses, provided you are unable to collect from them due to direct loss or damage to your credit card receipts from a Covered Cause of Loss.

The most we will pay per occurrence for this Coverage Extension is the Credit Card Receipts Limit Of Insurance shown in the Schedule.

j. Personal Property In Transit

You may extend the insurance provided by this policy to apply to your Covered Property, other than "money" and "securities",

valuable papers and records", or accounts receivable, while it is in the course of transit. The most we will pay for loss or damage under this Extension is the Personal Property In Transit Limit Of Insurance shown in the Schedule.

- G. With respect to the coverage provided by this endorsement, the following is added to Paragraph **E.5. Property Loss Conditions - Loss Payment:**

i. **Lease Gap Coverage - Office Equipment**

Applicable to covered Business Personal Property you lease or rent from others, in the event of a covered loss to leased or rented office equipment, our limit of liability will be the greater of:

- (1) The amount due under the terms of the lease or rental agreement to which your covered Business Personal Property is subject; or
- (2) The cost to repair or replace, with property of like kind and quality.

- H. With respect to the coverage provided by this endorsement, Section **G. Optional Coverages** is amended as follows:

1. The introductory paragraph is deleted and replaced with the following:

If shown as applicable in the Schedule of this endorsement, the following Optional Coverages also apply. If higher limits are provided, they will be shown on the Declarations under the designated coverage. These coverages are subject to the terms and conditions applicable to property coverage in this policy, except as provided below:

2. **Outdoor Signs**

Paragraph **1.d. Outdoor Signs** is replaced by the following:

- d. The most we will pay for loss or damage in any one occurrence is the Limit Of Insurance for Outdoor Signs shown in the Schedule, unless a higher Limit Of Insurance is shown in the Declarations.

Paragraph **2.c. Money And Securities** is replaced by the following:

- c. The most we will pay for loss in any one occurrence is:

- (1) The Money And Securities - Inside The Premises Limit Of Insurance shown in the Schedule, unless a higher limit is shown in the Declarations, for "money" and "securities" while:

- (a) In or on the premises described in the Schedule on this endorsement; or

- (b) Within a bank or savings institution; and

- (2) The Money And Securities - Outside The Premises Limit Of Insurance shown in the Schedule, unless a higher limit is shown in the Declarations, for "money" and "securities" while anywhere else.

4. Employee Dishonesty

Paragraph **3.c. Employee Dishonesty** is replaced by the following:

- c. The most we will pay for loss or damage in any one occurrence is the Limit Of Insurance for Employee Dishonesty shown in the Schedule, unless a higher limit is shown in the Declarations.

SECTION III - COMMON POLICY PROVISIONS

- I. The following policy condition is added to **Section III - Common Policy Conditions (Applicable To Section I - Property And Section II - Liability):**

M. Insurance Under Same Coverage With Different Limits

If more than one endorsement has the same coverage, but different limits, the endorsement with the highest limit will be the most we will pay for the covered loss. The limits may not be combined to obtain a higher limit of insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EMPLOYMENT PRACTICES LIABILITY
 INSURANCE COVERAGE ENDORSEMENT
 CLAIMS-MADE AND REPORTED COVERAGE BASIS**

SCHEDULE

NOTICE		
EXCEPT TO SUCH EXTENT AS MAY OTHERWISE BE PROVIDED HEREIN, THIS EPL COVERAGE IS LIMITED TO LIABILITY FOR ONLY THOSE CLAIMS OR SUITS THAT ARE FIRST MADE AGAINST THE INSURED(S) DURING THE EPL COVERAGE PERIOD AND REPORTED IN WRITING TO THE INSURER PURSUANT TO THE TERMS HEREIN. VARIOUS PROVISIONS IN THIS EPL COVERAGE RESTRICT COVERAGE. PLEASE READ THE ENTIRE EPL COVERAGE FORM CAREFULLY TO DETERMINE RIGHTS, DUTIES AND WHAT IS AND IS NOT COVERED.		
THE LIMIT OF LIABILITY AVAILABLE TO PAY JUDGMENTS OR SETTLEMENTS UNDER THIS EPL COVERAGE SHALL BE REDUCED BY AMOUNTS INCURRED FOR DEFENSE COSTS. AMOUNTS INCURRED FOR DEFENSE		

EPL Coverage Period:	From: 05/07/2020 To: 05/07/2021	At 12:01 A.M. Standard Time at your mailing address shown on the Declarations page of this policy.
EPL Aggregate Limit of Liability:	\$100,000	Annual aggregate for all "loss" combined, including "defense costs".
EPL Deductible Amount:	\$10,000	For "loss" arising from claims or suits alleging the same "wrongful employment act" or "related wrongful employment acts".
EPL Retroactive Date:	05/07/2018	If no date is shown, "we" will consider the EPL Retroactive Date to be the date of organization of the "named insured". The EPL Retroactive Date will remain the same through all subsequent renewals. No change will be made to the EPL Retroactive Date unless at the sole request of the insured.
<input type="checkbox"/>	Third Party Violations	If box at left is checked, coverage for "third party violations" applies

This insurance does not apply to "loss" arising out of a "wrongful employment act" that arises out of incidents or circumstances of which "you" had knowledge prior to the effective date of this EPL Coverage or the first EPL Coverage Form issued by "us" of which this EPL Coverage is an uninterrupted renewal.

Throughout this Coverage Endorsement (hereinafter referred to as "EPL Coverage"), the words "you" and "your" refer to the "named insured(s)" shown in the Declarations of this policy and any other person(s) or organization(s) qualifying as a "named insured" under this EPL Coverage. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under **SECTION III. WHO IS AN INSURED.**

Other words and phrases that appear in "quotations" have special meaning. Refer to **SECTION VII. DEFINITIONS.**

The terms and conditions of the Cancellation Clause of the Common Policy Conditions and any amendment to such terms incorporated by endorsement are hereby incorporated herein and shall apply to coverage as is afforded by this EPL Coverage, unless specifically stated otherwise in an endorsement(s) attached hereto.

SECTION I. WHAT IS COVERED

A. Insuring Agreement

1. "We" shall pay those "losses" arising out of an "insured's" "wrongful employment act" (other than a "third party violation") against "your" "employees", "recognized volunteers" and applicants for employment to which this insurance applies.
2. If coverage for "third party violations" is shown on the Schedule, then "we" shall pay those "losses" arising out of an "insured's" "third party violation".
3. For coverage to apply under this EPL Coverage, the "wrongful employment act" must commence or take place after the Retroactive Date, but before the end of the "EPL coverage period". If no Retroactive Date appears on the Schedule, then the Retroactive Date shall be the date of organization of the "named insured." A "claim" or "suit" for a "wrongful employment act" must be first made against "you" during the "EPL coverage period" or Extended Reporting Periods (if applicable) and reported to "us" pursuant to the terms of this EPL Coverage.
4. A "claim" or "suit" by a person or organization seeking damages will be deemed to have been made at the earlier of the following times:
 - a. When written notice of such "claim" or "suit" is received and recorded by any "insured" or by "us", whichever comes first; or
 - b. When "we" make any settlement in accordance with the terms of this EPL Coverage.

B. Defense

1. "We" have the right and duty to defend and appoint an attorney to defend any "claim" or "suit" brought against any "insured" for a "wrongful employment act" to which this insurance applies, even if the "claim" or "suit" is groundless or fraudulent.

At the time a "claim" or "suit" is first reported to "us", "you" may request that "we" appoint a defense attorney of "your" choice. "We" will give full consideration to any such request.

2. "We" have the right to investigate and settle any "claim" or "suit" that "we" believe is proper. "You" shall be entitled to consent to

such settlement, provided your consent is not unreasonably withheld and is provided as soon as practicable.

If "you" refuse to consent to any settlement that "we" recommend and that is acceptable to the claimant, then "our" liability under this EPL Coverage for such "claim" or "suit" shall not exceed the amount for which we could have settled had "your" consent not been withheld at the time of "our" recommendation. "You" shall thereafter negotiate and defend that "claim" or "suit" at "your" own cost and without "our" involvement.

3. "We" shall pay all reasonable costs "we" ask the "insured" to incur while helping "us" investigate or defend a "claim" or "suit". "We", however, will not pay more than \$250 per day for earnings lost by the "insured" because of time taken off from work.
4. "We" shall pay premiums for appeal bonds, or bonds to release property being used to secure a legal obligation, for a covered "suit". "We" shall only pay, however, for bonds valued up to "our" EPL Aggregate Limit of Liability. "We" shall have no obligation to appeal or to obtain these bonds.
5. Payments for "defense costs" are included within the EPL Aggregate Limit of Liability. They are not in addition to the EPL Aggregate Limit of Liability. "Our" duty to defend or to make payment of any "claim" or "suit" pursuant to Paragraphs 1. through 4. of this Clause B., ends after the EPL Aggregate Limit of Liability has been exhausted by payment of "loss", including "defense costs".
6. "We" shall pay all interest on that amount of any judgment within the EPL Aggregate Limit of Liability:

- a. Which accrues after entry of judgment; and
- b. Before "we" pay, offer to pay, or deposit in court that part of the judgment within the EPL Aggregate Limit of Liability.

These interest payments shall be in addition to and not part of the EPL Aggregate Limit of Liability.

C. Transfer of Control

1. "You" may take over control of any outstanding "claim" or "suit" previously

reported to us, but only if we, in our sole discretion, decide that you should, or if a court orders "you" to do so.

2. Notwithstanding Paragraph 1. of this Clause C., in all events, if the EPL Aggregate Limit of Liability is exhausted, "we" will notify "you" of all outstanding "claims" or "suits" and "you" will take over control of the defense. "We" will help transfer control of the "claims" and "suits" to "you".
3. "We" shall take whatever steps are necessary to continue the defense of any outstanding "claim" or "suit" and avoid a default judgment during the transfer of control to "you". If "we" do so, "we" shall not waive or give up any of "our" rights. "You" shall pay all reasonable expenses "we" incur for taking such steps after the EPL Aggregate Limit of Liability is exhausted.

SECTION II. EXCLUSIONS-WHAT IS NOT COVERED

This insurance does not apply to:

A. Criminal Acts

Any liability arising out of any dishonest, fraudulent, criminal, or malicious act by or at the direction of any "insured". However, to the extent that a "claim" or "suit" is otherwise covered under this EPL Coverage "we" will defend a "claim" or "suit" asserting a dishonest, fraudulent, criminal or malicious act until such time as the "insured" is determined to have committed such dishonest, fraudulent, criminal or malicious act;

The "wrongful employment act(s)" of an "insured" shall not be imputed to any other "insured" for the purpose of determining the applicability of this Exclusion A.;

B. "Property Damage"

Any liability arising out of "property damage";

C. "Bodily Injury"

Any liability arising out of "bodily injury";

D. Worker's Compensation, Social Security and Unemployment, Disability and Retirement Benefits

Any liability arising out of any obligation pursuant to any worker's compensation, disability benefits, unemployment compensation, unemployment

insurance, retirement benefits, social security benefits or similar law. This exclusion, however, shall not apply to "loss" arising from a "claim" or "suit" for "retaliation";

E. Contractual Liability

Any liability arising out of any actual or alleged contractual liability of any "insured" under any express contract or agreement. This exclusion, however, shall not apply to any liability the "insured" would have in the absence of such express contract or agreement;

F. ERISA, FLSA, NLRA, WARN, COBRA, and OSHA

Any liability for violation(s) of any of the responsibilities, obligations or duties imposed by the Employee Retirement Income Security Act of 1974, the Fair Labor Standards Act (except the Equal Pay Act), the National Labor Relations Act, the Worker Adjustment and Retraining Notification Act, the Consolidated Omnibus Budget Reconciliation Act, the Occupational Safety and Health Act, any rules or regulations of the foregoing promulgated thereunder, and amendments thereto or any similar federal, state, local or foreign statutory law or common law.

It is acknowledged that "claims" and "suits" for violation(s) of any of the responsibilities, obligations or duties imposed by "similar federal, state, local or foreign statutory law or common law," as such quoted language is used in the immediately-preceding paragraph, include, without limitation, any and all "claims" and "suits" which in whole or in part allege, arise out of, are based upon, are attributable to, or are in any way related to any of the circumstances described in any of the following:

1. The refusal, failure or inability of any "insured(s)" to pay wages or overtime pay (or amounts representing such wages or overtime pay) for services rendered or time spent in connection with work related activities (as opposed to tort-based back pay or front pay damages for torts other than conversion);
2. Improper deductions from pay taken by any "insured(s)" from any "employee(s)" or purported employee(s); or
3. Failure to provide or enforce legally required meal or rest break periods;

Notwithstanding the foregoing, this Exclusion F. shall not apply to the extent that a "claim" or "suit" is for "retaliation";

G. Prior Knowledge

Any liability arising out of incidents, circumstances or "wrongful employment acts", which an "insured"

1. Had knowledge of; or
2. Could have reasonably foreseen might result in a "claim" or "suit"

and which were known to the "insured" prior to the effective date of this EPL Coverage or the first EPL Coverage issued by "us" of which this EPL Coverage is an uninterrupted renewal;

H. Prior Notice

Any liability arising out of the facts alleged, or to the same or "related wrongful employment acts" alleged or contained in any "claim" or "suit" which has been reported, or in any circumstances of which notice has been given, under any policy of which this EPL Coverage is a renewal or replacement or which it may succeed in time;

I. Prior Litigation

Any liability arising out of any prior

1. Litigation; or
2. Administrative or regulatory proceeding or investigation

of which an "insured" had notice, or alleging the same or "related wrongful employment acts" alleged or contained in such pending or prior litigation or administrative or regulatory proceeding or investigation which the "insured" had knowledge of prior to the effective date of this EPL Coverage or the first EPL Coverage issued by "us" of which this EPL Coverage is an uninterrupted renewal.

SECTION III. WHO IS AN INSURED

A. Individual

If "you" are shown in the Declarations of this policy as an individual, "you" and "your" spouse or "Domestic Partner" are "insureds", only for the conduct of a business of which "you" are the sole owner.

B. Corporation

If "you" are shown in the Declarations of this policy as a corporation or organization other than

a partnership, joint venture, or limited liability company, "you" and "your" "subsidiaries" are "insureds".

C. Partnership or Joint Venture

If "you" are shown in the Declarations of this policy as a partnership or joint venture, "you" are an "insured". "Your" members, partners or co-venturers and their spouses or "Domestic Partners" are also "insureds", but only for the conduct of "your" business.

D. Limited Liability Company

If "you" are shown in the Declarations of this policy as a limited liability company, "you" are an "insured." "Your" members are also "insureds", but only with respect to the conduct of "your" business. "Your" managers are "insureds", but only with respect to their duties as "your" managers.

E. Trusts

If "you" are shown in the Declarations of this policy as a trust, "you" are an "insured". "Your" trustees are also "insureds", but only with respect to their duties as trustees.

F. "Employees"

"Your" "employees", executive officers and directors are "insureds", only for the conduct of "your" business within the scope of their employment or their duties as executive officers or directors.

G. Extensions

1. Subject otherwise to the terms hereof, this EPL Coverage shall cover "loss" arising from any "claims" or "suits" made against the estates, heirs, or legal representative of deceased individual "insureds", and the legal representatives of individual "insureds", in the event of incompetency, who were individual "insureds" at the time the "wrongful employment acts", upon which such "claims" or "suits" are based, were committed.
2. Subject otherwise to the terms hereof, this EPL Coverage shall cover "loss" arising from all "claims" and "suits" made against the lawful spouse (whether such status is derived by reason of statutory law, common law or otherwise of any applicable jurisdiction in the world) or "Domestic Partner" of an individual

SECTION IV. LIMIT OF LIABILITY (including "defense costs")

- A.** The EPL Aggregate Limit of Liability shown in the Schedule of this EPL Coverage and the information contained in this section limits the most "we" shall pay for all "loss" (other than post-judgment interest described in Section I., Clause B., Paragraph 6.) arising out of "claims" and "suits" first made against "insureds" during the "EPL coverage period" or Extended Reporting Periods (if applicable), regardless of:
1. The number of persons or organizations covered by this EPL Coverage; or
 2. The number of "claims" made or "suits" brought; or
 3. The length of the "EPL coverage period".
- B.** The EPL Aggregate Limit of Liability is the most "we" shall pay for all "losses" (other than post-judgment interest described in Section I., Clause B., Paragraph 6.), including amounts incurred for "defense costs".
- C.** The EPL Aggregate Limit of Liability for the Extended Reporting Periods (if applicable) shall be part of, and not in addition to the EPL Aggregate Limit of Liability for the "EPL coverage period".
- D.** All "claims" and "suits" arising from the same or "related wrongful employment acts" shall be treated as arising out of a single "wrongful employment act".
- E.** All "claims" or "suits" arising out of one "wrongful employment act" shall be deemed to be made on the date that the first such "claim" is made or "suit" is brought. All "claims" asserted in

- a "class action suit" will be treated as arising out of a single "wrongful employment act".
- F.** Any "claim" or "suit" which is made subsequent to the "EPL coverage period" or Extended Reporting Periods (if applicable) which, pursuant to Section VI., Clause D., Paragraphs 3. and 4. is considered made during the "EPL coverage period" or Extended Reporting Periods (if applicable) shall also be subject to the one EPL Aggregate Limit of Liability stated in the Schedule of this EPL Coverage.

SECTION V. DEDUCTIBLE

"You" shall be responsible for the deductible amount shown in the Schedule of this EPL Coverage with respect to each "claim" and "suit" and "you" may not insure against it. A single deductible amount shall apply to "loss" arising from all "claims" and "suits" alleging the same "wrongful employment act" or "related wrongful employment acts". Expenses "we" incur in investigating, defending and settling "claims" and "suits" are included in the deductible. The deductible is not included within the EPL Aggregate Limit of Liability.

At our option, "we" may pay any part or all of the EPL Deductible Amount to effect settlement of any "claim" or "suit" and upon notification of the action taken, "you" shall promptly reimburse "us" for such part of the deductible that has been paid by "us".

SECTION VI. CONDITIONS

"We" have no duty to provide coverage under this EPL Coverage, unless there has been full compliance with all the Conditions contained in this EPL Coverage.

A. Assignment

The interest of any "insured" is not assignable. "You" cannot assign or transfer "your" interest in this EPL Coverage without "our" written consent attached to the EPL Coverage.

B. Bankruptcy or Insolvency

"Your" bankruptcy, insolvency or inability to pay, will not relieve "us" from the payment of any "claim" or "suit" covered by this EPL Coverage.

Under no circumstances will "your" bankruptcy, insolvency, or inability to pay require "us" to drop down, in any way replace, or assume any of "your" obligations with respect to the Deductible provisions of this EPL Coverage.

C. Coverage Territory

"We" cover "wrongful employment acts" anywhere in the world, but only if the "claim" is made and the "suit" is brought for such "wrongful employment act" in the United States of America, its territories and possessions, Puerto Rico, or Canada.

D. Duties in the Event of an Incident, "Claim" or "Suit"

1. If, during the "EPL coverage period", incidents or events occur which "you" reasonably believe may give rise to a "claim" or "suit" for which coverage may be provided hereunder, such belief being based upon either written notice from the potential claimant or the potential claimant's representative; or notice of a complaint filed with EEOC, DOL or OFCCP (or similar federal, state or local agency); or upon an oral "claim", allegation or threat, "you" shall give written notice to "us" as soon as practicable and either:

- a. Anytime during the "EPL coverage period"; or
- b. Anytime during the Extended Reporting Periods (if applicable).

2. If a "claim" is made or a "suit" is brought against any "insured", "you" must:

- a. Immediately record the specifics of the "claim" or "suit" and the date received; and
- b. Provide "us" with written notice, as described in Paragraph 3. of this Clause D., as soon as practicable.

3. Such written notice of "claim" or "suit" shall contain:

- a. The identity of the person(s) alleging a "wrongful employment act";
- b. The identity of the "insured(s)" who allegedly were involved in the incidents or events;
- c. The date the alleged incidents or events took place; and
- d. The written notice or a memorandum of the oral "claim", allegation or threat referred to above.

If written notice is given to "us" during the "EPL coverage period" or Extended Reporting Periods (if applicable), pursuant to the above

requirements, then any "claim" or "suit" which is subsequently made against any "insureds" and reported to "us" alleging, arising out of, based upon or attributable to such circumstances or alleging any "related wrongful employment act" to such circumstances, shall be considered made at the time such notice of such circumstances was first given.

4. If "you" submit written notice of a "claim" or "suit", pursuant to this Clause D., then any "claim" or "suit" that may subsequently be made against an "insured" and reported to "us" alleging the same or a "related wrongful employment act" to the "claim" or "suit" for which such notice has been given shall be deemed, for the purpose of this insurance, to have been first made during the "EPL coverage period" or Extended Reporting Period (if applicable) in effect at the time such written notice was first submitted to "us".

5. "You" and any other "insured" must:

- a. Immediately send "us" copies of any demands, notices, summonses or legal papers received in connection with any "claim" or "suit";
- b. Authorize "us" to obtain records and other information;
- c. Cooperate with "us" in the investigation, settlement or defense of the "claim" or "suit";
- d. Assist "us", upon "our" request, in the enforcement of any right against any person or organization which may be liable to the "insured" because of injury or damage to which this insurance may also apply;
- e. Take no action, or fail to take any required action, that prejudices the rights of the "insureds" or "us" with respect to such "claim" or "suit".

6. No "insureds" will, except at their own cost, voluntarily make a payment, assume any obligation, or incur any expense without "our" prior written consent.

E. Transfer of Rights of Recovery Against Others to "Us"

"You" may be able to recover all or part of a "loss" from someone other than "us". "You",

therefore, shall do all that is possible after a "loss" to preserve any such right of recovery. If "we" make a payment under this EPL Coverage, that right of recovery shall belong to "us". "You" shall do whatever is necessary, including signing documents, to help "us" obtain that recovery.

F. Extended Reporting Periods

1. You shall have the right to the Extended Reporting Periods described in Paragraph 2. of this Clause F., in the event that:
 - a. "You" or "we" shall cancel this EPL Coverage;
 - b. "You" or "we" shall refuse to renew this EPL Coverage; or
 - c. "We" renew this EPL Coverage on an other than a claims-made basis or with a Retroactive Date later than the Retroactive Date shown on the Schedule of this EPL Coverage;
2. If an event as specified in Paragraph 1. of this Clause F. has occurred, "you" shall have the right to the following:
 - a. An Automatic Extended Reporting Period of thirty (30) days after the effective date of cancellation or nonrenewal at no additional premium in which to give to "us" written notice of "claims" first made or "suits" first brought against the "insureds" during said Automatic Extended Reporting Period for any "wrongful employment acts" occurring before the end of the "EPL coverage period" and are otherwise covered by this EPL Coverage; and
 - b. Upon payment of an additional premium of 100% of the full annual premium applicable to this EPL Coverage, a Supplemental Extended Reporting Period of one (1) year immediately following the effective date of cancellation or nonrenewal in which to give to "us" written notice of "claims" first made or "suits" first brought against the "insureds" during said Supplemental Extended Reporting Period for any "wrongful employment acts" occurring before the end of the "EPL coverage period" and are otherwise covered by this EPL Coverage.

To obtain the Supplemental Extended Reporting Period, "you" must request it in writing and pay the additional premium due,

within thirty (30) days of the effective date of cancellation or nonrenewal. The additional premium for the Supplemental Extended Reporting Period shall be fully earned at the inception of the Supplemental Extended Reporting Period. If "we" do not receive the written request as required, "you" may not exercise this right at a later date.

This insurance, provided during the Supplemental Extended Reporting Period, is excess over any other valid and collectible insurance that begins or continues in effect after the Supplemental Extended Reporting Period becomes effective, whether the other insurance applies on a primary, excess, contingent, or any other basis.

G. Change in Control of "Named Insured"

In the event of a "Transaction" then this EPL Coverage shall continue in full force and effect as to "wrongful employment acts" occurring prior to the effective time of the "Transaction", but there shall be no coverage afforded by any provision of this EPL Coverage for any actual or alleged "wrongful employment acts" occurring after the effective time of the "Transaction". This EPL Coverage may not be cancelled after the effective time of the "Transaction" and the entire premium for this EPL Coverage shall be deemed earned as of such time. "You" shall also have the right to the Extended Reporting Periods described in Clause F. of this Section VI.

"You" shall give "us" written notice of the "Transaction" as soon as practicable, but not later than thirty (30) days after the effective date of the "Transaction".

H. Legal Action Against "Us"

No person or organization has the right to join "us" as a party or otherwise bring "us" into a "suit" asking for damages from an "insured".

I. Other Insurance

Unless expressly written to be excess over other applicable insurance, it is intended that the insurance provided by this EPL Coverage shall be primary.

J. EPL Coverage Changes

This EPL Coverage contains all the agreements between "you" and "us" concerning this insurance. The first "named insured" in the Declarations of this policy is authorized to request

changes in this EPL Coverage. This EPL Coverage can only be changed by a written endorsement "we" issue and make part of this EPL Coverage.

K. Representations

Any and all relevant provisions of this EPL Coverage may be voidable by "us" in any case of fraud, intentional concealment, or misrepresentation of material fact by any "insured".

L. Special Rights and Duties of the First "Named Insured"

"You" agree that when there is more than one person and/or entity covered under this EPL Coverage, the first "named insured" in the Declarations of this policy shall act on behalf of all "insureds" as to:

1. Giving of notice of a "claim" or "suit";
2. Giving and receiving notice of cancellation or nonrenewal;
3. Payment of premiums and receipt of return premiums;
4. Acceptance of any endorsements issued to form a part of this EPL Coverage; or
5. Purchasing or deciding not to purchase the Supplemental Extended Reporting Period.

M. Separation of Insureds

Except with respect to the EPL Aggregate Limit of Liability and any rights or duties specifically assigned to the first "named insured" in Clause M. of this Section VI, this insurance applies:

1. As if each "named insured" were the only "named insured"; and
2. Separately to each insured against whom a "claim" or "suit" is made.

N. Tie-In of Limits

As respects any "claim" or "suit" in which at least one person/entity claimed against is an "insured" under this EPL Coverage and at least one person/entity claimed against is an insured under any other EPL Coverage issued to "you" by "us" (the "Other Policy"), the combined EPL Aggregate Limit of Liability under both this EPL Coverage and the Other Policy for all "losses" arising from such "claims" or "suits" combined shall not exceed the highest applicable limit of insurance under either this EPL Coverage or the Other Policy. This limitation shall apply even if

Both this EPL Coverage and the Other Policy have been triggered due to a "claim" or "suit" made against the same person/entity but alleging "wrongful employment acts" both in his, her or its capacity as an insured under the "Other policy" and as an "insured" under this EPL Coverage.

O. Headings

The descriptions in the headings of this EPL Coverage are solely for convenience, and form no part of the terms and conditions of coverage.

SECTION VII. DEFINITIONS

- A. "Bodily injury" means physical injury, sickness, or disease, including death resulting therefrom.
- B. "Claim" means a written demand for monetary and non-monetary relief (including any request to toll or waive any statute of limitations). The term "claim" shall also mean an Equal Employment Opportunity Commission (EEOC), Department of Labor (DOL) or Office of Federal Contract Compliance Program (OFCCP) (or similar federal, state or local agency) proceeding or investigation commenced by the filing of a notice of charges, service of a complaint or similar document of which notice has been given to "you". However, in no event, shall the term "claim" include any labor or grievance proceeding, which is subject to a collective bargaining agreement.
- C. "Class action suit" means any suit seeking certification or certified as a class action by a federal or state court.
- D. "Defense costs" means reasonable and necessary fees, costs and expenses consented to by "us" resulting solely from the investigation, adjustment, defense and appeal of a "claim" or "suit" against "you". In no event shall "Defense Costs" include "your" or "our" routine on-going expenses, including, without limitation, the salaries of "your" or "our" "employees", officers or staff attorneys.
- E. "Domestic partner" means any natural person legally recognized as a domestic or civil union partner under:
 1. The provisions of any applicable federal, state or local law; or
 2. The provisions of any formal program established by "you".

F. "Employee" means an individual whose labor or service is engaged by and directed by "you" for remuneration, whether such individual is in a supervisory, co-worker or subordinate position or otherwise, including any part-time, seasonal, and temporary "employees".

An individual who is an independent contractor or leased to "you" shall also be an "employee". Independent contractors who do not provide ongoing and routine services solely for "you" shall not be considered "employees", including but not limited to independent trade contractors (e.g. plumber, electrician).

G. "EPL coverage period" means the period commencing on the effective date shown in the Schedule of this EPL Coverage. This period ends on the earlier of the expiration date or the effective date of cancellation of this EPL Coverage. If "you" became an "insured" under this EPL Coverage after the effective date, the "EPL coverage period" begins on the date "you" became an "insured".

H. "Loss(es)" means monetary amounts to which this insurance applies and which "you" are legally obligated to pay (including front pay and back pay), judgments, settlements, pre- and post-judgment interest on that part of any judgment paid by "us", statutory attorney fees, and "defense costs"; however, "loss" shall not include:

1. Civil or criminal fines or penalties imposed by law;
2. Taxes;
3. Employment related benefits, stock options, perquisites, deferred compensation or any other type of compensation other than salary, wages or bonus compensation;
4. Any liability or costs incurred by any "insured" to modify any building or property in order to make said building or property more accessible or accommodating to any disabled person, or any liability or costs incurred in connection with any educational, sensitivity or other corporate program, policy or seminar; or
5. Matters which may be deemed uninsurable under the law pursuant to which this EPL Coverage shall be construed.

Where permitted by law, "loss" shall include punitive or exemplary damages imposed upon any

"insured" (subject to the policy's other terms, conditions and exclusions).

I. "Named insured" means the person or organization designated in the Declarations of this policy.

J. "Property damage" means physical injury to, or destruction of, tangible property including the loss of use thereof, or loss of use of tangible property, which has not been physically injured or destroyed.

K. "Recognized volunteer" means an uncompensated individual who volunteers labor or services to "you", but only when performing such labor or services at the request of and under the direction of "you".

L. "Related wrongful employment act(s)" means "wrongful employment acts" which are the same, related or continuous, or "wrongful employment acts" which arise from a common nucleus of facts. "Claims" or "suits" can allege "related wrongful employment acts", regardless of whether such "claims" or "suits" involve the same or different claimants, "insureds" or legal causes of actions.

M. "Retaliation" means a "wrongful employment act" of an "insured" alleged to be in response to, the actual or attempted exercise by an "employee" of any right that such "employee" has under the law. Provided, however, "retaliation" shall not include the "wrongful employment act" of an "insured" alleged to be in response to the threat of or the actual filing of any claim or suit under the Federal False Claims Act or any other federal, state, local or foreign "whistleblower law".

N. "Subsidiary" means:

1. Any for-profit organization which, on or before the inception of the "EPL coverage period", is more than fifty (50%) percent owned by the "named insured", either directly or indirectly through one or more of its "subsidiaries"; or
2. A for-profit organization which becomes a "subsidiary" during the "EPL coverage period", but only upon the condition that within ninety (90) days of its becoming a "subsidiary", the "named insured" shall have provided "us" with full particulars of the new "subsidiary" and agreed to any additional premium or amendment of the provisions of this EPL Coverage required by "us" relating to such new "subsidiary". Further, coverage as shall be afforded to the new "subsidiary" is conditioned upon the "named insured" paying when due

An organization becomes a "subsidiary" when the "named insured" owns more than fifty (50%) percent ownership interest in such "subsidiary", either directly, or indirectly through one or more of its "subsidiaries". An organization ceases to be a "subsidiary" when the "named insured" ceases to own more than a fifty (50%) percent ownership in such "subsidiary", either directly, or indirectly through one or more of its "subsidiaries".

In all events, coverage as is afforded under this EPL Coverage with respect to a "claim" made or "suit" brought against any "subsidiary" or an "insured" of any "subsidiary", shall only apply to "wrongful employment act(s)" commenced or allegedly commenced after the effective time that such "subsidiary" became a "subsidiary", and prior to the time that such "subsidiary" ceased to be a "subsidiary".

O. "Suit" means a civil proceeding or an administrative proceeding seeking money damages, and includes an arbitration, mediation or any other alternative dispute resolution procedure seeking such damages, to which the "insured" must submit or may submit with "our" consent. "Suit" shall not include any civil proceeding or administrative proceeding arising from any labor or grievance dispute which is subject to a collective bargaining agreement.

P. "Third party violation" means any actual or alleged discrimination or sexual harassment against "your" customers, vendors or clients. "Third party violation" shall also include any of the following as it relates to such discrimination or sexual harassment:

1. Violation of an individual's civil rights;
2. Libel;
3. Slander;
4. Humiliation;
5. Mental anguish;
6. Infliction of emotional distress;
7. Defamation; or
8. Invasion of privacy;

1. The "named insured" shall consolidate with or merge into, or sell all or substantially all of its assets to any other person or entity or group of persons or entities acting in concert; or

2. Any person or entity or group of persons or entities acting in concert shall acquire an amount of the outstanding securities representing more than fifty (50%) percent of the voting power for the election of directors or General Partners of the "named insured" (in the event the "named insured" is a Partnership), or acquires the voting rights of such an amount of such securities; or

3. A General Partner of the "named insured" (in the event the "named insured" is a partnership) withdraws, resigns or is terminated;

R. "Whistleblower law" means a statute, rule or regulation, which protects an employee against discrimination from his or her employer, if the employee discloses or threatens to disclose to a superior or any governmental agency; or who gives testimony relating to, any action with respect to the employer's operations, which may be a violation of public policy as reflected in legislation, administrative rules, regulations or decisions, judicial decisions, and professional codes of ethics.

S. "Wrongful employment act(s)" means any actual or alleged:

1. Wrongful dismissal, discharge or termination (either actual or constructive), including breach of an implied contract;
2. Harassment or coercion (including sexual harassment, whether quid pro quo, hostile work environment or otherwise);
3. Discrimination (including but not limited to discrimination based upon age, gender, race, color, national origin, religion, sexual orientation or preference, pregnancy or disability);
4. "Retaliation" (including lockouts);
5. Employment-related misrepresentation(s) to "your" "employee" or applicant for employment with "you";

6. Employment-related libel, slander, humiliation, mental anguish, infliction of emotional distress, defamation, or invasion of privacy;
7. Wrongful failure to employ or promote;
8. Wrongful deprivation of career opportunity, wrongful demotion or negligent "employee" evaluation, including the giving of negative or defamatory statements in connection with an "employee" reference;
9. Wrongful discipline;
10. Failure to provide or enforce adequate or consistent corporate policies and procedures relating to any "wrongful employment act";
11. Negligent supervision or hiring by an "insured", relating to any of the above;
12. Violation of an individual's civil rights relating to any of the above; or
13. "Third party violations", but only if coverage for "third party violations" is shown on the Schedule.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EQUIPMENT BREAKDOWN COVERAGE

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

The following deductible amount will apply to each loss after all other adjustments have been made.
Deductible: \$500
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. The following is added to Paragraph A.3. Covered Causes Of Loss in Section I - Property.

Additional Coverage - Equipment Breakdown

The term Covered Cause of Loss includes the Additional Coverage Equipment Breakdown as described and limited below.

1. We will pay for direct physical damage to Covered Property that is the direct result of an "accident." As used in this Additional Coverage, "accident" means a fortuitous event that causes direct physical damage to "covered equipment." The event must be one of the following:
 - a. Mechanical breakdown, including rupture or bursting caused by centrifugal force;
 - b. Artificially generated electrical, magnetic or electromagnetic energy, including electric arcing, that damages, disturbs, disrupts or otherwise interferes with any electrical or electronic wire, device, appliance, system or network;
 - c. Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control;
 - d. Loss or damage to steam boilers, steam pipes, steam engines or steam turbines caused by or resulting from any condition or event inside such equipment; or
 - e. Loss or damage to hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment.
2. The following coverages also apply to the direct result of an "accident." These

coverages do not provide additional amounts of insurance.

a. Expediting Expenses

With respect to your damaged Covered Property, we will pay the reasonable extra cost to:

- (1) Make temporary repairs; and
- (2) Expedite permanent repairs or permanent replacement.

The most we will pay for loss or expense under this coverage is \$25,000.

b. Hazardous Substances

We will pay for the additional cost to repair or replace Covered Property because of contamination by a "hazardous substance." This includes the additional expenses to clean up or dispose of such property.

This does not include contamination of "perishable goods" by refrigerant, including but not limited to ammonia, which is addressed in 2.c.(1)(b) below. As used in this coverage, additional costs mean those beyond what would have been payable under this Equipment Breakdown Coverage had no "hazardous substance" been involved.

The most we will pay for loss, damage or expense under this coverage, including actual loss of Business Income you sustain and necessary Extra Expense you incur, is \$25,000.

c. **Spoilage**

(1) We will pay:

- (a) For physical damage to "perishable goods" due to spoilage;
- (b) For physical damage to "perishable goods" due to contamination from the release of refrigerant, including but not limited to ammonia;
- (c) Any necessary expenses you incur to reduce the amount of loss under this coverage to the extent that they do not exceed the amount of loss that otherwise would have been payable under this coverage.

- (2) If you are unable to replace the "perishable goods" before its anticipated sale, the amount of our payment will be determined on the basis of the sales price of the "perishable goods" at the time of the "accident," less discounts and expenses you otherwise would have had. Otherwise our payment will be determined in accordance with the Loss Payment condition.

The most we will pay for loss, damage or expense under this coverage is \$50,000.

d. **Data Restoration**

We will pay for your reasonable and necessary cost to research, replace and restore lost "electronic data."

The most we will pay for loss or expense under this coverage, including actual loss of Business Income you sustain and necessary Extra Expense you incur, is \$25,000.

e. **Service Interruption**

- (1) Any insurance provided for Business Income, Extra Expense or Spoilage is extended to apply to your loss, damage or expense caused by the interruption of utility services. The interruption must result from an "accident" to equipment, including overhead transmission lines, that is owned by a utility, landlord, a

landlord's utility or other supplier who provides you with any of the following services: electrical power, waste disposal, air conditioning, refrigeration, heating, natural gas, compressed air, water, steam, internet access, telecommunications services, wide area networks or data transmission. The equipment must meet the definition of "covered equipment" except that it is not Covered Property.

- (2) We will not pay for any loss of Business Income you sustain that results from the interruption of utility services during the first 24 hours following the "accident." However, if the "period of restoration" begins more than 24 hours after the time of the direct physical damage for Business Income, then that time period will apply instead of the 24 hours provided for in this paragraph.
- (3) The most we will pay in any "one accident" for loss, damage or expense under this coverage is the applicable limit for Business Income, Extra Expense or Spoilage.

f. **Business Income and Extra Expense**

Any insurance provided under this policy for Business Income or Extra Expense is extended to the coverage provided by this endorsement. The most we will pay for loss or expense under this coverage is the applicable limit for Business Income and Extra Expense.

B. Paragraph B. Exclusions in Section I - Property is amended as follows:

Equipment Breakdown Exclusions

All exclusions in **Section I - Property** apply except as modified below and to the extent that coverage is specifically provided by this Additional Coverage Equipment Breakdown.

1. The following exclusions are modified:

- a. The following is added to Exclusion **B.1.g.:**

However, if electrical "covered equipment" requires drying out because of Water as described in **g.(1)** through **g.(3)**

above, we will pay for the direct expenses of such drying out subject to the applicable Limit of Insurance and deductible for Building or Business Personal Property, whichever applies.

- b. As respects this endorsement only, the next to the last paragraph in Exclusion **B.1.h.** is deleted and replaced with the following:

However, if excluded loss or damage, as described in Paragraph (1) above results in an "accident," we will pay only for the loss, damage or expense caused by such "accident."

- c. As respects this endorsement only, the last paragraph of Exclusion **B.2.i.** is deleted and replaced with the following:

But if an excluded cause of loss that is listed in **2.i.(1)** through **(7)** results in an "accident," we will pay for the loss, damage or expense caused by that "accident."

- d. The following is added to Exclusions **B.2.m.** and **B.2.n.:**

We will also pay for direct physical loss or damage caused by an "accident."

2. The following exclusions are added:

- a. We will not pay for loss, damage or expense caused by or resulting from:

(1) A hydrostatic, pneumatic or gas pressure test of any boiler or pressure vessel, or an electrical insulation breakdown test of any type of electrical equipment; or

(2) Any of the following:

(a) Defect, programming error, programming limitation, computer virus, malicious code, loss of data, loss of access, loss of use, loss of functionality or other condition within or involving "electronic data" of any kind; or

(b) Misalignment, miscalibration, tripping off-line, or any condition which can be corrected by resetting, tightening, adjusting or

cleaning, or by the performance of maintenance.

However, if an "accident" results, we will pay for the resulting loss, damage or expense caused by that "accident."

- b. With respect to Service Interruption coverage, we will also not pay for an "accident" caused by or resulting from: fire; lightning; windstorm or hail; explosion (except as specifically provided in **A.1.c.** above); smoke; aircraft or vehicles; riot or civil commotion; vandalism; sprinkler leakage; falling objects; weight of snow, ice or sleet; freezing; collapse; flood or earth movement.

- c. With respect to Business Income, Extra Expense and Service Interruption coverages, we will also not pay for any increase in loss resulting from an agreement between you and your customer or supplier.

- d. We will not pay for any loss or damage to animals.

C. The following is added to Paragraph C. Limits Of Insurance in Section I - Property:

The most we will pay for loss, damage or expense under this endorsement arising from any "one accident" is the applicable Limit of Insurance for **Section I - Property** in the Declarations. Coverage provided under this endorsement does not provide an additional amount of insurance.

- D. With respect to the coverage provided under this endorsement, the following conditions are added to Paragraph F. Property General Conditions in Section I - Property.**

1. Suspension

Whenever "covered equipment" is found to be in, or exposed to, a dangerous condition, any of our representatives may immediately suspend the insurance against loss from an "accident" to that "covered equipment." This can be done by mailing or delivering a written notice of suspension to:

- a. Your last known address; or
- b. The address where the "covered equipment" is located.

Once suspended in this way, your insurance can be reinstated only by an endorsement for that "covered equipment." If we suspend your insurance, you will get a pro rata refund of premium for that "covered equipment" for the period of suspension. But the suspension will be effective even if we have not yet made or offered a refund.

2. Jurisdictional Inspections

If any property that is "covered equipment" under this endorsement requires inspection to comply with state or municipal boiler and pressure vessel regulations, we agree to perform such inspection on your behalf. We do not warrant that conditions are safe or healthful.

3. Environmental, Safety and Efficiency Improvements

If "covered equipment" requires replacement due to an "accident," we will pay your additional cost to replace with equipment that is better for the environment, safer or more efficient than the equipment being replaced.

However, we will not pay more than 125% of what the cost would have been to replace with like kind and quality. This condition does not increase any of the applicable limits. This condition does not apply to any property to which Actual Cash Value applies.

E. Paragraph **G.4. Optional Coverages - Equipment Breakdown Protection Coverage** in **Section I - Property** is deleted.

F. The following definitions are added to Paragraph **H. Property Definitions** in **Section I - Property**:

1. "Covered equipment"

a. "Covered equipment" means Covered Property:

- (1) That generates, transmits or utilizes energy, including electronic communications and data processing equipment; or
- (2) Which, during normal usage, operates under vacuum or pressure, other than the weight of its contents.

b. None of the following is "covered equipment":

(1) Structure, foundation, cabinet, compartment or air supported structure or building;

(2) Insulating or refractory material;

(3) Sewer piping, buried vessels or piping, or piping forming a part of a sprinkler or fire suppression system;

(4) Water piping other than boiler feedwater piping, boiler condensate return piping or water piping forming a part of a refrigerating or air conditioning system;

(5) "Vehicle" or any equipment mounted on a "vehicle";

(6) Satellite, spacecraft or any equipment mounted on a satellite or spacecraft;

(7) Dragline, excavation or construction equipment; or

(8) Equipment manufactured by you for sale.

2. "Hazardous substance" means any substance that is hazardous to health or has been declared to be hazardous to health by a governmental agency.

3. "One accident" means: If an initial "accident" causes other "accidents," all will be considered "one accident." All "accidents" that are the result of the same event will be considered "one accident".

4. "Perishable goods" means personal property maintained under controlled conditions for its preservation, and susceptible to loss or damage if the controlled conditions change.

5. "Vehicle" means, as respects this endorsement only, any machine or apparatus that is used for transportation or moves under its own power. "Vehicle" includes, but is not limited to, car, truck, bus, trailer, train, aircraft, watercraft, forklift, bulldozer, tractor or harvester.

However, any property that is stationary, permanently installed at a covered location and that receives electrical power from an external power source will not be considered a "vehicle."

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - MANAGERS OR LESSORS OF PREMISES

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Designation Of Premises (Part Leased To You):

2100 N SNELLING STE 171, ROSEVILLE, MN 55113

Name Of Person(s) Or Organization(s) (Additional Insured):

M&T REAL ESTATE TRUST
350 PARK AVENUE
NEW YORK, NY 10022

Additional Premium: \$

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. The following is added to Paragraph C. Who Is An Insured:

- 3.** The person(s) or organization(s) shown in the Schedule is also an additional insured, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Schedule.

However:

- a.** The insurance afforded to such additional insured only applies to the extent permitted by law;
- b.** If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds the following additional exclusions apply:

This insurance does not apply to:

- 1.** Any "occurrence" that takes place after you cease to be a tenant in the premises described in the Schedule.
- 2.** Structural alterations, new construction or demolition operations performed by or for the person(s) or organization(s) designated in the Schedule.

- C.** With respect to the insurance afforded to these additional insureds, the following is added to Paragraph **D. Liability And Medical Expenses Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits Of Insurance shown in the Declarations.

whichever is less.

This endorsement shall not increase the applicable Limits Of Insurance shown in the Declarations.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - MANAGERS OR LESSORS OF PREMISES

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Designation Of Premises (Part Leased To You):

2100 N SNELLING STE 171, ROSEVILLE, MN 55113

Name Of Person(s) Or Organization(s) (Additional Insured):

EMMES REALTY SERVICES LLC

420 LEXINGTON AVENUE

ROOM 900

NEW YORK, NY 10170

Additional Premium: \$

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. The following is added to Paragraph C. Who Is An Insured:

- 3.** The person(s) or organization(s) shown in the Schedule is also an additional insured, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Schedule.

However:

- a.** The insurance afforded to such additional insured only applies to the extent permitted by law;
- b.** If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds the following additional exclusions apply:

This insurance does not apply to:

- 1.** Any "occurrence" that takes place after you cease to be a tenant in the premises described in the Schedule.
- 2.** Structural alterations, new construction or demolition operations performed by or for the person(s) or organization(s) designated in the Schedule.

- C.** With respect to the insurance afforded to these additional insureds, the following is added to Paragraph **D. Liability And Medical Expenses Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits Of Insurance shown in the Declarations.

whichever is less.

This endorsement shall not increase the applicable Limits Of Insurance shown in the Declarations.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - MANAGERS OR LESSORS OF PREMISES

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Designation Of Premises (Part Leased To You):

2100 N SNELLING STE 171, ROSEVILLE, MN 55113

Name Of Person(s) Or Organization(s) (Additional Insured):

EMMES ASSET MANAGEMENT

420 LEXINGTON AVENUE

ROOM 900

NEW YORK, NY 10170

Additional Premium: \$

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. The following is added to Paragraph C. Who Is An Insured:

- 3.** The person(s) or organization(s) shown in the Schedule is also an additional insured, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Schedule.

However:

- a.** The insurance afforded to such additional insured only applies to the extent permitted by law;
- b.** If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds the following additional exclusions apply:

This insurance does not apply to:

- 1.** Any "occurrence" that takes place after you cease to be a tenant in the premises described in the Schedule.
- 2.** Structural alterations, new construction or demolition operations performed by or for the person(s) or organization(s) designated in the Schedule.

- C.** With respect to the insurance afforded to these additional insureds, the following is added to Paragraph **D. Liability And Medical Expenses Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits Of Insurance shown in the Declarations.

whichever is less.

This endorsement shall not increase the applicable Limits Of Insurance shown in the Declarations.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - MANAGERS OR LESSORS OF PREMISES

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Designation Of Premises (Part Leased To You):

2100 N SNELLING STE 171, ROSEVILLE, MN 55113

Name Of Person(s) Or Organization(s) (Additional Insured):

GATEWAY WASHINGTON INC
%EMMES ASSET MANAGEMENT COMPANY LLC
420 LEXINGTON AVENUE
ROOM 900
NEW YORK, NY 10170

Additional Premium: \$

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. The following is added to Paragraph C. Who Is An Insured:

- 3.** The person(s) or organization(s) shown in the Schedule is also an additional insured, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Schedule.

However:

- a.** The insurance afforded to such additional insured only applies to the extent permitted by law;
- b.** If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds the following additional exclusions apply:

This insurance does not apply to:

- 1.** Any "occurrence" that takes place after you cease to be a tenant in the premises described in the Schedule.
- 2.** Structural alterations, new construction or demolition operations performed by or for the person(s) or organization(s) designated in the Schedule.

- C.** With respect to the insurance afforded to these additional insureds, the following is added to Paragraph **D. Liability And Medical Expenses Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits Of Insurance shown in the Declarations.

whichever is less.

This endorsement shall not increase the applicable Limits Of Insurance shown in the Declarations.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WATER BACK-UP AND SUMP OVERFLOW

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Premises Number	Covered Property Annual Aggregate Limit Of Insurance	Business Income And Extra Expense Annual Aggregate Limit Of Insurance
	See Schedule BP 04 53 SC	
Information required to complete this Schedule, if not shown above, will be shown on Declarations.		

A. We will pay for direct physical loss or damage to Covered Property, covered under Section I - Property, caused by or resulting from:

1. Water or waterborne material which backs up through or overflows or is otherwise discharged from a sewer or drain; or
2. Water or waterborne material which overflows or is otherwise discharged from a sump, sump pump or related equipment, even if the overflow or discharge results from mechanical breakdown of a sump pump or its related equipment.

However, with respect to Paragraph **A.2.**, we will not pay the cost of repairing or replacing a sump pump or its related equipment in the event of mechanical breakdown.

B. The coverage described in Paragraph **A.** of this endorsement does not apply to loss or damage resulting from:

1. An insured's failure to keep a sump pump or its related equipment in proper working condition;
2. An insured's failure to perform the routine maintenance or repair necessary to keep a sewer or drain free from obstructions; or
3. Sump pump failure which is caused by or results from failure of power, unless this policy

is endorsed to cover power failure affecting the described premises.

C. The most we will pay for the coverage provided under this endorsement for all direct physical loss or damage to Covered Property is the Covered Property Annual Aggregate Limit of Insurance. That limit is \$5,000 per location, unless a different Covered Property Annual Aggregate Limit of Insurance is indicated in the Schedule of this endorsement.

The applicable Covered Property Annual Aggregate Limit of Insurance is the most we will pay under this endorsement for the total of all direct physical loss or damage sustained in any one policy year, regardless of the number of occurrences that cause or result in loss or damage to Covered Property. If loss payment for the first such occurrence does not exhaust the applicable Limit Of Insurance, then the balance of that Limit is available for subsequent loss or damage sustained in, but not after, that policy year. With respect to an occurrence which begins in one policy year and continues or results in additional loss or damage in a subsequent policy year(s), all loss or damage is deemed to be sustained in the policy year in which the occurrence began.

D. The following provisions apply to **Section I - Property** and supersede any provisions to the contrary:

The most we will pay under:

1. Paragraph **A.5.f.** Business Income Additional Coverage for all loss of Business Income you sustain due to the necessary suspension of your "operations" caused by direct physical loss or damage to Covered Property as described in Paragraph **A.** of this endorsement; and
2. Paragraph **A.5.g.** Extra Expense Additional Coverage for all necessary Extra Expense you incur and that you would not have incurred if there had been no direct physical loss or damage to Covered Property as described in Paragraph **A.** of this endorsement;

is the Business Income And Extra Expense Annual Aggregate Limit Of Insurance. That limit is \$5,000 per location, unless a different Business Income And Extra Expense Annual Aggregate Limit Of Insurance is shown in the Schedule.

The applicable Business Income And Extra Expense Annual Aggregate Limit of Insurance is the most we will pay under this endorsement for the total of all loss of Business Income you sustain and Extra Expense you incur in any one policy year, regardless of the number of occurrences that cause or result in loss or damage to Covered Property as described in Paragraph **A.** of this endorsement. If loss payment during an earlier "period of restoration" in the policy year does not exhaust the applicable Limit Of Insurance, then the balance of that limit is available for loss of Business Income you sustain or Extra Expense you incur during a subsequent "period of restoration" beginning in, but not after, that policy year. With respect to a "period of restoration" which begins in one policy year and continues in a subsequent policy year(s), all loss of Business Income you sustain or Extra Expense you incur is deemed to be sustained or incurred in the policy year in which the "period of restoration" began.

E. With respect to the coverage provided under this endorsement, the **Water** Exclusion in **Section I - Property** is replaced by the following:

Water

1. Flood, surface water, waves (including tidal wave and tsunami), tides, tidal water, overflow of any body of water, or spray from any of these, all whether or not driven by wind (including storm surge);
2. Mudslide or mudflow;
3. Water under the ground surface pressing on, or flowing or seeping through:
 - a. Foundations, walls, floors or paved surfaces;
 - b. Basements, whether paved or not; or
 - c. Doors, windows or other openings; or
4. Waterborne material carried or otherwise moved by any of the water referred to in Paragraph **1.** or **3.**, or material carried or otherwise moved by mudslide or mudflow.

This exclusion applies regardless of whether any of the above, in Paragraphs **1.** through **4.**, is caused by an act of nature or is otherwise caused. An example of a situation to which this exclusion applies is the situation where a dam, levee, seawall or other boundary or containment system fails in whole or in part, for any reason, to contain the water.

But if any of the above, in Paragraphs **1.** through **4.**, results in fire, explosion or sprinkler leakage, we will pay for the loss or damage caused by that fire, explosion or sprinkler leakage.

- F. For the purposes of this endorsement, the term drain includes a roof drain and related fixtures.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WATER BACK-UP AND SUMP OVERFLOW SCHEDULE

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Premises Number	Covered Property Annual Aggregate Limit Of Insurance	Business Income And Extra Expense Annual Aggregate Limit Of Insurance
1	\$10,000	\$5,000

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

UTILITY SERVICES - DIRECT DAMAGE

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Premises Number	Building Number	Utility Services Limit Of Insurance	Water Supply Property ("X" If Applies)	Communication Supply Property	Power Supply Property
		See Schedule BP 04 56 SC			
Covered Property:					
Covered Property:					
Covered Property:					
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.					

The coverage provided by this endorsement is subject to the provisions of Section I - Property, including Paragraph D. Deductibles, except as provided below.

A. The following is added to Paragraph A. Coverage:

We will pay for loss of or damage to Covered Property described in the Schedule, caused by the interruption of service to the described premises. The interruption must result from direct physical loss or damage by a Covered Cause of Loss to the property described in Paragraph C. of this endorsement if such property is indicated by an "X" in the Schedule.

B. Exception

Coverage under this endorsement for loss or damage to Covered Property does not apply to loss or damage to "electronic data", including destruction or corruption of "electronic data".

C. Utility Services

1. Water Supply Property, meaning the following types of property supplying water to the described premises:
 - a. Pumping stations; and
 - b. Water mains.

2. **Communication Supply Property**, meaning property supplying communication services, including telephone, radio, microwave or television services to the described premises, such as:
- a. Communication transmission lines, including optic fiber transmission lines;
 - b. Coaxial cables; and
 - c. Microwave radio relays except satellites.
- It does not include overhead transmission lines unless indicated in the Schedule.
3. **Power Supply Services**, meaning the following types of property supplying electricity, steam or gas to the described premises:
- a. Utility generating plants;
 - b. Switching stations;
 - c. Substations;
 - d. Transformers; and
 - e. Transmission lines.
- It does not include overhead transmission lines unless indicated in the Schedule.
- D. As used in this endorsement, the term transmission lines includes all lines which serve to transmit communication service or power, including lines which may be identified as distribution lines.
- E. Paragraph C. **Limits Of Insurance** is replaced by the following:
- C. Limits Of Insurance**
- If a Utility Services Limit Of Insurance is shown in the Schedule, such limit is part of, not in addition to, the Limit Of Insurance stated in the Declarations as applicable to the Covered Property.
- If no Limit Of Insurance is shown for Utility Services, coverage under this endorsement is subject to the applicable Limit Of Insurance on the Covered Property as shown in the Declarations. But this Utility Services Endorsement does not increase the applicable Limit Of Insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

UTILITY SERVICES - DIRECT DAMAGE SCHEDULE

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Premises Number	Building Number	Utility Services Limit Of Insurance	Water Supply Property ("X" If Applies)	Communication Supply Property	Power Supply Property
				Overhead Transmission Lines Enter Either "Included" Or "Not Included" (If Applicable)	
1	1	See Covered Property Below	X	Not Included	Not Included
Covered Property: 2100 N SNELLING STE 171, ROSEVILLE, MN 55113 BUSINESS PERSONAL PROPERTY LIMIT - \$10,000					

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

UTILITY SERVICES - TIME ELEMENT

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Premises Number	Building Number	Utility Services Limit Of Insurance	Water Supply	Wastewater Removal Property	Communication Supply Property	Power Supply Property
			Property ("X" If Applies)		Overhead Transmission Lines Enter Either "Included" Or "Not Included" (If Applicable)	
		See Schedule BP 04 57 SC				

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The coverage provided by this endorsement is subject to the provisions of Section I - Property, except as provided below.

A. The following is added to Paragraph A. Coverage:

We will pay for loss of Business Income or Extra Expense at the described premises caused by the interruption of service to the described premises. The interruption must result from direct physical loss or damage by a Covered Cause of Loss to the property described in Paragraph C. of this endorsement if such property is indicated by an "X" in the Schedule.

B. Exception

Coverage under this endorsement does not apply to Business Income loss or Extra Expense related to interruption in utility service which causes loss or damage to "electronic data", including destruction or corruption of "electronic data".

C. Utility Services

1. Water Supply Property, meaning the following types of property supplying water to the described premises:

- a. Pumping stations; and
- b. Water mains.

2. Wastewater Removal Property, meaning a utility system for removing wastewater and

sewage from the described premises, other than a system designed primarily for draining storm water. The utility property includes sewer mains, pumping stations and similar equipment for moving the effluent to a holding, treatment or disposal facility, and includes such facilities.

Coverage under this endorsement does not apply to interruption in service caused by or resulting from a discharge of water or sewage due to heavy rainfall or flooding.

3. Communication Supply Property, meaning property supplying communication services, including telephone, radio, microwave or television services to the described premises, such as:

- a. Communication transmission lines, including optic fiber transmission lines;
- b. Coaxial cables; and
- c. Microwave radio relays except satellites.

It does not include overhead transmission lines unless indicated in the Schedule.

4. Power Supply Property, meaning the following types of property supplying electricity, steam or gas to the described premises:

- a. Utility generating plants;

b. Switching stations;

c. Substations;

d. Transformers; and

e. Transmission lines.

It does not include overhead transmission lines unless indicated in the Schedule.

D. As used in this endorsement, the term transmission lines includes all lines which serve to transmit communication service or power, including lines which may be identified as distribution lines.

E. Paragraph C. Limits Of Insurance is replaced by the following:

C. Limits Of Insurance

The most we will pay for loss or damage in any one occurrence is the Limit Of Insurance shown in the Schedule as applicable to the Covered Property.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

UTILITY SERVICES - TIME ELEMENT SCHEDULE

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE						
Premises Number	Building Number	Utility Services Limit Of Insurance	Water Supply Property ("X" If Applies)	Wastewater Removal Property	Communication Supply Property	Power Supply Property
					Overhead Transmission Lines Enter Either "Included" Or "Not Included" (If Applicable)	
1	1	\$10,000	X	X	Not Included	Not Included

**THIS ENDORSEMENT IS ATTACHED TO AND MADE PART OF YOUR POLICY IN RESPONSE
 TO THE DISCLOSURE REQUIREMENTS OF THE TERRORISM RISK INSURANCE ACT.
 THIS ENDORSEMENT DOES NOT GRANT ANY COVERAGE OR CHANGE THE TERMS
 AND CONDITIONS OF ANY COVERAGE UNDER THE POLICY.**

DISCLOSURE PURSUANT TO TERRORISM RISK INSURANCE ACT

SCHEDULE

SCHEDULE - PART I			
Terrorism Premium (Certified Acts)		\$0	
Additional Information, if any, concerning the terrorism premium:			
SCHEDULE - PART II			
Federal share of terrorism losses		80 %	Year 2020
(Refer to Paragraph B. in this endorsement.)			
Federal share of terrorism losses		%	Year 2021
(Refer to Paragraph B. in this endorsement.)			
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.			

A. Disclosure Of Premium

In accordance with the federal Terrorism Risk Insurance Act, we are required to provide you with a notice disclosing the portion of your premium, if any, attributable to coverage for terrorist acts certified under the Terrorism Risk Insurance Act. The portion of your premium attributable to such coverage is shown in the Schedule of this endorsement or in the policy Declarations.

B. Disclosure Of Federal Participation In Payment Of Terrorism Losses

The United States Government, Department of the Treasury, will pay a share of terrorism losses insured under the federal program. The federal share equals a percentage (as shown in Part **II** of the Schedule of this endorsement or in the policy Declarations) of that portion of the amount of such insured losses that exceeds the applicable insurer retention. However, if aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a calendar year, the Treasury shall not make any payment for any portion of the amount of such losses that exceeds \$100 billion.

C. Cap On Insurer Participation In Payment Of Terrorism Losses

If aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a calendar year and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMPUTER FRAUD AND FUNDS TRANSFER FRAUD

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Coverage	Limit Of Insurance
Computer Fraud And Funds Transfer Fraud Coverage	\$5,000
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

Section I - Property is amended as follows:

A. With respect to the coverage provided by this endorsement, Paragraph **A.4. Limitations** is amended as follows:

Subparagraph **a.(4)** does not apply.

B. The following is added to Paragraph **A.5. Additional Coverages**:

Computer Fraud And Funds Transfer Fraud

(1) The Computer Fraud And Funds Transfer Fraud Coverage limit shown in the Schedule of this endorsement is the most we will pay for loss of and damage to "money", "securities" and "other property" following and directly related to the use of any computer to fraudulently cause a transfer of that property from inside the described premises, bank or savings institution:

(a) To a person (other than a messenger) outside those premises; or

(b) To a place outside those premises.

(2) The Computer Fraud And Funds Transfer Fraud Coverage limit shown in the Schedule of this endorsement is the most we will pay for loss of "money" and "securities" resulting directly from a "fraudulent instruction" directing a financial institution to transfer, pay or deliver "money" and "securities" from your "transfer account".

C. With respect to the coverage provided by this endorsement, Paragraph **B. Exclusions** is amended as follows:

1. Paragraph **2.g. False Pretense** does not apply.

2. The following exclusion is added:

We will not pay for loss or damages caused by or resulting from the use or purported use of credit, debit, charge, access, convenience, identification, stored-value or other cards or the information contained on such cards.

D. The following exclusion is added to Paragraph under **G.2. Money And Securities** Optional Coverages:

(4) Or damage to "money" and "securities" following and directly related to the use of any computer to fraudulently cause a transfer of that property from inside the described premises, bank or savings institution:

(a) To a person (other than a messenger) outside those premises; or

(b) To a place outside those premises.

E. The following are added to Paragraph **H. Property Definitions**:

15. "Employee"

a. "Employee" means:

(1) Any natural person:

(a) While in your service or for 30 days after termination of service;

(b) Who you compensate directly by salary, wages or commissions; and

(c) Who you have the right to direct and control while performing services for you;

- (2) Any natural person who is furnished temporarily to you:
- (a) To substitute for a permanent "employee", as defined in Paragraph (1), who is on leave; or
 - (b) To meet seasonal or short-term work load conditions;
- while that person is subject to your direction and control and performing services for you, excluding, however, any such person while having care and custody of property outside the premises;
- (3) Any natural person who is leased to you under a written agreement between you and a labor leasing firm, to perform duties related to the conduct of your business, but does not mean a temporary employee as defined in Paragraph (2) above;
- (4) Any natural person who is:
- (a) A trustee, officer, employee, administrator or manager, except an administrator or manager who is an independent contractor, of any "employee benefit plan(s)" insured under this policy; and
 - (b) Your director or trustee while that person is handling "funds" or "other property" of any "employee benefit plan(s)" insured under this policy;
- (5) Any natural person who is a former "employee", director, partner, "member", "manager", representative or trustee retained as a consultant while performing services for you; or
- (6) Any natural person who is a guest student or intern pursuing studies or duties, excluding, however, any such person while having care and custody of property outside the premises.
- b. "Employee" does not mean:
- (1) Any agent, broker, factor, commission merchant, consignee, independent contractor or representative of the same general character; or
- (2) Any manager, director or trustee except while performing acts coming within the scope of the usual duties of an "employee".
16. "Fraudulent instruction" means:
- a. An electronic, telegraphic, cable, teletype, telefacsimile or telephone instruction which purports to have been transmitted by you, but which was in fact fraudulently transmitted by someone else without your knowledge or consent;
 - b. A written instruction (other than those described in Paragraph A.5.k.) issued by you, which was forged or altered by someone other than you without your knowledge or consent or which purports to have been issued by you, but was in fact fraudulently issued without your knowledge or consent; or
 - c. An electronic, telegraphic, cable, teletype, telefacsimile, telephone or written instruction initially received by you which purports to have been transmitted by an "employee" but which was in fact fraudulently transmitted by someone else without your or the "employee's" knowledge or consent.
17. "Other property" means any tangible property other than "money" and "securities" that has intrinsic value but does not include any property excluded under this policy.
18. "Transfer account" means an account maintained by you at a financial institution from which you can initiate the transfer, payment or delivery of "money" and "securities":
- a. By means of electronic, telegraphic, cable, teletype, telefacsimile or telephone instructions communicated directly through an electronic funds transfer system; or
 - b. By means of written instructions (other than those described in Paragraph A.5.k.) establishing the conditions under which such transfers are to be initiated by such financial institution through an electronic funds transfer system.

POLICY NUMBER:

BUSINESSOWNERS**BP 05 64 01 15****THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

CONDITIONAL EXCLUSION OF TERRORISM (RELATING TO DISPOSITION OF FEDERAL TERRORISM RISK INSURANCE ACT)

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULEThe **Exception Covering Certain Fire Losses** (Paragraph B.2.) applies to property located in the following state(s):

Iowa
Illinois
Wisconsin

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section I – Property and Section II – Liability are amended as follows:**1. Applicability Of The Provisions Of This Endorsement**

- a. The provisions of this endorsement become applicable commencing on the date when any one or more of the following first occurs. But if your policy (meaning the policy period in which this endorsement applies) begins after such date, then the provisions of this endorsement become applicable on the date your policy begins.

- (1) The federal Terrorism Risk Insurance Program ("Program"), established by the Terrorism Risk Insurance Act, has terminated with respect to the type of insurance provided under this Coverage Form; or

- (2) A renewal, extension or replacement of the Program has become effective without a requirement to make terrorism coverage available to you and with revisions that:

- (a) Increase our statutory percentage deductible under the Program for terrorism losses. (That deductible determines the amount of all certified terrorism losses we must pay in a calendar year, before the federal government shares in subsequent payment of certified terrorism losses.); or
- (b) Decrease the federal government's statutory percentage share in potential terrorism losses above such deductible; or

- (c) **Redefine terrorism or make insurance coverage for terrorism subject to provisions or requirements that differ from those that apply to other types of events or occurrences under this policy.**
- b. **If the provisions of this endorsement become applicable, such provisions:**
- (1) **Supersede any terrorism endorsement already endorsed to this policy that addresses "certified acts of terrorism" and/or "other acts of terrorism", but only with respect to loss or injury or damage from an incident(s) of terrorism (however defined) that occurs on or after the date when the provisions of this endorsement become applicable; and**
 - (2) **Remain applicable unless we notify you of changes in these provisions, in response to federal law.**
- c. **If the provisions of this endorsement do NOT become applicable, any terrorism endorsement already endorsed to this policy, that addresses "certified acts of terrorism" and/or "other acts of terrorism", will continue in effect unless we notify you of changes to that endorsement in response to federal law.**
2. The following definition is added and applies under this endorsement wherever the term terrorism is enclosed in quotation marks.
- "Terrorism" means activities against persons, organizations or property of any nature:
- a. That involve the following or preparation for the following:
 - (1) Use or threat of force or violence; or
 - (2) Commission or threat of a dangerous act; or
 - (3) Commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and
 - b. When one or both of the following applies:
 - (1) The effect is to intimidate or coerce a government or the civilian population or any segment thereof, or to disrupt any segment of the economy; or
 - (2) It appears that the intent is to intimidate or coerce a government, or to further political, ideological, religious, social or economic objectives or to express (or express opposition to) a philosophy or ideology.

B. Section I – Property is amended as follows:

1. The following exclusion is added:

EXCLUSION OF TERRORISM

We will not pay for loss or damage caused directly or indirectly by "terrorism", including action in hindering or defending against an actual or expected incident of "terrorism". Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss. But this exclusion applies only when one or more of the following are attributed to an incident of "terrorism":

- a. The "terrorism" is carried out by means of the dispersal or application of radioactive material, or through the use of a nuclear weapon or device that involves or produces a nuclear reaction, nuclear radiation or radioactive contamination; or
- b. Radioactive material is released, and it appears that one purpose of the "terrorism" was to release such material; or
- c. The "terrorism" is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
- d. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the "terrorism" was to release such materials; or
- e. The total of insured damage to all types of property in the United States, its territories and possessions, Puerto Rico and Canada exceeds \$25,000,000. In determining whether the \$25,000,000 threshold is exceeded, we will include all insured damage sustained by property of all persons and entities affected by the "terrorism" and business interruption losses sustained by owners or occupants of the damaged property. For the purpose of this provision, insured damage means damage that is covered by any insurance plus damage that would be covered by any insurance but for the application of any terrorism exclusions. Multiple incidents of "terrorism" which occur within a 72-hour period and appear to be carried out in concert or to have a related purpose or common leadership will be deemed to be one incident, for the purpose of determining whether the threshold is exceeded.

With respect to this Item **1.e.**, the immediately preceding paragraph describes the threshold used to measure the magnitude of an incident of "terrorism" and the circumstances in which the threshold will apply, for the purpose of determining whether this Exclusion will apply to that incident. When the Exclusion applies to an incident of "terrorism", there is no coverage under this Coverage Form.

2. Exception Covering Certain Fire Losses

The following exception to the Exclusion Of Terrorism applies only if indicated and as indicated in the Schedule of this endorsement.

If "terrorism" results in fire, we will pay for the loss or damage caused by that fire, subject to all applicable policy provisions including the Limit of Insurance on the affected property. Such coverage for fire applies only to direct loss or damage by fire to Covered Property. Therefore, for example, the coverage does not apply to insurance provided under Business Income and/or Extra Expense coverages or endorsements that apply to those coverages.

3. Application Of Other Exclusions

When the Exclusion Of Terrorism applies in accordance with the terms of Paragraph **1.a.** or **1.b.**, such exclusion applies without regard to the Nuclear Hazard Exclusion in this Coverage Form.

C. Section II – Liability is amended as follows:

1. The following definition is added and applies under this endorsement wherever the phrase any injury or damage, is enclosed in quotation marks:

"Any injury or damage" means any injury or damage covered under this Coverage Form or any applicable endorsement, and includes but is not limited to "bodily injury", "property damage" or "personal and advertising injury", as may be defined under this Coverage Form or any applicable endorsement.

2. The following exclusion is added:

EXCLUSION OF TERRORISM

We will not pay for "any injury or damage" caused directly or indirectly by "terrorism", including action in hindering or defending against an actual or expected incident of "terrorism". "Any injury or damage" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to such injury or damage. **But this exclusion applies only when one or more of the following are attributed to an incident of "terrorism":**

- a. The "terrorism" is carried out by means of the dispersal or application of radioactive material, or through the use of a nuclear weapon or device that involves or produces a nuclear reaction, nuclear radiation or radioactive contamination; or
- b. Radioactive material is released, and it appears that one purpose of the "terrorism" was to release such material; or
- c. The "terrorism" is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
- d. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the "terrorism" was to release such materials; or
- e. The total of insured damage to all types of property exceeds \$25,000,000. In determining whether the \$25,000,000 threshold is exceeded, we will include all insured damage sustained by property of all persons and entities affected by the "terrorism" and business interruption losses sustained by owners or occupants of the damaged property. For the purpose of this provision, insured damage means damage that is covered by any insurance plus damage that would be covered by any insurance but for the application of any terrorism exclusions; or

f. Fifty or more persons sustain death or serious physical injury. For the purposes of this provision, serious physical injury means:

- (1) Physical injury that involves a substantial risk of death; or
- (2) Protracted and obvious physical disfigurement; or
- (3) Protracted loss of or impairment of the function of a bodily member or organ.

Multiple incidents of "terrorism" which occur within a 72-hour period and appear to be carried out in concert or to have a related purpose or common leadership will be deemed to be one incident, for the purpose of determining whether the thresholds in Paragraph **2.e.** or **2.f.** are exceeded.

With respect to this Exclusion, Paragraphs **2.e.** and **2.f.** describe the threshold used to measure the magnitude of an incident of "terrorism" and the circumstances in which the threshold will apply, for the purpose of determining whether this Exclusion will apply to that incident. When the Exclusion applies to an incident of "terrorism", there is no coverage under this Coverage Form.

D. The following provision is added to Section I – Property and Section II – Liability:

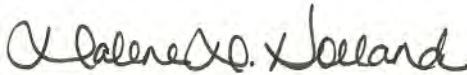
The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for loss or injury or damage that is otherwise excluded under this Policy.

WADENA INSURANCE COMPANY

AMENDATORY ENDORSEMENT

1. Wadena Insurance Company located at 7825 Mills Civic Parkway, West Des Moines, Iowa, is a stock company domiciled under the laws of the state of Iowa.
2. The following is made a part of the policy:

In Witness Whereof, we have caused this policy to be executed and attested, and, if required by state law, this policy shall not be valid unless countersigned by our authorized representative.



Secretary



President

BUSINESSOWNERS
BO 01 25 03 15

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

MINNESOTA CHANGES

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM INFORMATION SECURITY PROTECTION ENDORSEMENT

- A. The following is added to Paragraph E.3. Duties In The Event Of Loss Or Damage** Property Loss Conditions in **Section I – Property** and Paragraph **E.2. Duties In The Event Of Occurrence, Offense, Claim Or Suit** Liability And Medical Expenses General Conditions in **Section II – Liability** of the Businessowners Coverage Form and similar conditions in any endorsement attached to this Policy:

The requirement to notify us can be satisfied by notifying our agent. Notice can be by any means of communication.

- B. Section I – Property** is amended as follows:

1. The following is added to Paragraph **A.3. Covered Causes Of Loss**:

We insure for all loss or damage caused by fire or any damage caused by lightning.

2. Paragraph **A.5.I.(8)** of the **Increased Cost Of Construction** Additional Coverages is replaced by the following:

- (8)** This Additional Coverage is not subject to the terms of the Ordinance Or Law Exclusion, to the extent that such exclusion would conflict with the provisions of this Additional Coverage. The coverage afforded under this Additional Coverage does not reduce coverage provided under exceptions to the Ordinance Or Law Exclusion as presented in this Endorsement.

3. Paragraph **A.5.I.(9)** of the **Increased Cost Of Construction** Additional Coverages does not apply.

4. Paragraph **B.1.a. Ordinance Or Law** Exclusions is replaced by the following:

a. Ordinance Or Law

- (1)** The enforcement of or compliance with any ordinance or law:

- (a)** Regulating the construction, use or repair of any property; or

- (b)** Requiring the tearing down of any property, including the cost of removing its debris.

- (2)** This exclusion, Ordinance Or Law, applies whether the loss results from:

- (a)** An ordinance or law that is enforced even if the property has not been damaged; or

- (b)** The increased costs incurred to comply with an ordinance or law in the course of construction, repair, renovation, remodeling or demolition of property, or removal of its debris, following a physical loss to that property.

- (3)** But if loss or damage is solely a result of one or more Covered Causes of Loss, we will pay for your compliance with such ordinance or law, subject to all other provisions of this Policy, including those listed below, as follows:

- (a)** In the event of a partial loss, if the building is insured on a replacement cost basis, we will pay for your compliance but only with respect to the damaged portion of the building.

- (b)** In the event of a total or constructive total loss, we will pay for your compliance with respect to the entire building.

- (c)** We will not pay under this provision for the costs associated with the enforcement of or compliance with any ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

- (d) Any valuation provision (including Replacement Cost) or loss payment condition which excludes the increased cost attributable to an ordinance or law is hereby revised to include such cost to the extent that coverage is provided above in this item,
4. But in no event will we pay more than the applicable Limit of Insurance.

- 5.** The following is added to Paragraph **D.1. Deductibles** and applies with respect to any deductible applicable to the Businessowners Property Coverage, including a deductible provided by endorsement for a particular cause of loss or coverage:

The Deductible will not apply to total loss of a building.

- 6.** Paragraph **E.3. Duties In The Event Of Loss Or Damage** Property Loss Conditions is amended as follows:

- a.** Paragraph **a.(3)** is deleted.
b. Paragraphs **a.(6)** and **a.(7)** are replaced by the following:

- (6)** As often as we reasonably require:

- (a)** Permit us to inspect the property. Also, permit us to take samples of damaged and undamaged property for inspection, testing and analysis;
(b) Provide us with records and documents reasonably related to the loss, or certified copies if the originals are lost, and permit us to make copies.

- (7)** Send us, within 60 days after our request, a signed, sworn proof of loss containing the following information we require to investigate the claim:

- (a)** A description of how and when the loss or damage occurred;
(b) The value of the property, except in the case of a total loss of an insured building;
(c) The interest of the insured and all others in the property; and
(d) Other insurance which may cover the loss or damage.

We will supply you with the necessary forms.

- c.** The following is added to Paragraph **a.:**

- (10)** Send to us, within a reasonable time after our request, the following:

- (a)** Changes in title or occupancy of the property during the term of the Policy; and
(b) Specifications of damaged buildings and detailed repair estimates.

- d.** Paragraph **b.** is replaced by the following:

- b.** After we inform an insured:

- (1)** Of the right to counsel; and
(2) That an insured's answers may be used against the insured in later civil or criminal proceedings;

we may examine any insured under oath, while not in the presence of any other insured and at such times as may be reasonably required, about any matter relating to this insurance or the claim. In the event of an examination, an insured's answers must be signed.

- 7.** Paragraph **E.5. Loss Payment** Property Loss Conditions is amended as follows:

- a.** Paragraph **g.** is replaced by the following:

- g.** Provided you have complied with all the terms of this Policy, we will pay for covered loss or damage within five business days after:

- (1)** We have received the proof of loss; and
(2) We have reached an agreement with you; or, in the event we use an independent claims adjuster, we have received the agreement and you have satisfied the conditions of the agreement, if any, or an appraisal award has been made.

- b.** The following paragraph is added and supersedes any provision to the contrary:

i. Replacement Cost – Business Personal Property

- (1)** We will not pay more for loss or damage on a replacement cost basis than the least of:

- (a)** The Limit of Insurance applicable to the lost or damaged property;

- (b)** The applicable Special Limit of Insurance shown in **i.(2)(a)**, **i.(2)(b)**, **i.(2)(c)** and **i.(2)(d)** below;

- (c) The cost to replace, on the same premises, the lost or damaged property with other property of comparable material and quality and used for the same purpose; or
 - (d) The amount you actually spend that is necessary to repair or replace the lost or damaged property.
- (2) The following Special Limits of Insurance apply to any category of property listed below, unless higher Special Limits Of Insurance are shown in the Declarations. These Special Limits are part of, not in addition to, any Limit Of Insurance shown in the Declarations, and apply in excess of any applicable deductible. The Special Limit of Insurance shown for any category listed below is the most we will pay for loss or damage to all property in that category in any one occurrence.
- (a) \$1,000 on used or secondhand merchandise held in storage or for sale;
 - (b) \$1,000 on property of others;
 - (c) \$1,000 on household contents, except personal property in apartments or rooms furnished by you as landlord;
 - (d) \$5,000 on manuscripts, works of art, antiques or rare articles, including etchings, pictures, statuary, marbles, bronzes, porcelains and bric-a-brac.
- With respect to the articles described in (a), (b), (c) and (d) above, in no event will we pay you less than we would have paid you if this Endorsement were not attached to the Policy.

c. The following paragraph is added:

- j. We agree that, in the event of a total loss, the Limit of Insurance (or the limit shown in the total loss schedule of values) for a building which is Covered Property represents its value.

8. Paragraphs a. and d. under **F.2. Mortgageholders** Property General Conditions are replaced by the following:

- a. The term "mortgageholder" includes trustees and contract-for-deed vendors.
- d. If we deny your claim because of your acts or because you have failed to comply with the terms of this Policy, the mortgageholder will still have the right to receive loss payment if the mortgageholder:

- (1) Pays premium due under the Policy at our request if you have failed to do so;
- (2) Submits a signed, sworn proof of loss within 60 days after receiving notice from us of your failure to do so.

All of the terms of this Policy will then apply directly to the mortgageholder.

9. The following paragraph is added to Paragraph **F.2.:**

- h. We will notify the mortgageholder of changes to this Policy that result in a substantial reduction of coverage to the mortgaged property.

C. Section II – Liability is amended as follows:

1. Paragraph **A.1.f. Coverage Extension – Supplementary Payments** is replaced by the following:

f. Coverage Extension – Supplementary Payments

- (1) We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:
 - (a) All expenses we incur.
 - (b) Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
 - (c) The cost of bonds to release attachments, but only for bond amounts within the applicable Limit of Insurance. We do not have to furnish these bonds.
 - (d) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work

- (e) All costs taxed against the insured in the "suit".
- (f) Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable Limit of Insurance, we will not pay any prejudgment interest based on that period of time after the offer.
- (g) All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable Limit of Insurance.

These payments will not reduce the Limits of Insurance.

- (2) If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:
 - (a) The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
 - (b) This insurance applies to such liability assumed by the insured;
 - (c) The obligation to defend, or the cost of the defense of, that indemnitee has also been assumed by the insured in the same "insured contract";
 - (d) The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
 - (e) The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
 - (f) The indemnitee:
 - (i) Agrees in writing to:
 - i. Cooperate with us in the investigation, settlement or defense of the "suit";

- ii. Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";

- iii. Notify any other insurer whose coverage is available to the indemnitee; and

- iv. Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and

- (ii) Provides us with written authorization to:
 - i. Obtain records and other information related to the "suit"; and
 - ii. Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

- (a) We have used up the applicable Limit of Insurance in the payment of judgments or settlements; or
- (b) The conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

- 2. Paragraph **b.** under Exclusion **B.1. Applicable To Business Liability Coverage** is replaced by the following:

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or

- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement.

3. Paragraph **E.1. Bankruptcy** Liability And Medical Expenses General Conditions is replaced by the following:

1. Bankruptcy

Bankruptcy, insolvency or dissolution of the insured or of the insured's estate will not relieve us of our obligations under this Policy and in case an execution against the insured on a final judgment is returned unsatisfied, then such judgment creditor shall have a right of action on this Policy against the company to the same extent that the insured would have, had the insured paid the final judgment.

D. Section III – Common Policy Conditions is amended as follows:

1. Paragraph **A. Cancellation** is replaced by the following:

A. Cancellation

1. The first Named Insured shown in the Declarations may cancel this Policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this Policy, subject to the provisions of **3.** below, by first-class mailing, or by delivery, of a written notice of cancellation to the first Named Insured and any agent, to their last mailing addresses known to us. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
3. If this Policy has been in effect for:
 - a. Fewer than 90 days and is a new policy, we may cancel for any reason by giving notice at least 10 days before the effective date of cancellation.
 - b. 90 days or more, or if it is a renewal of a policy we issued, we may cancel only for one or more of the following reasons:

- (1) Nonpayment of premium;

- (2) Misrepresentation or fraud made by you or with your knowledge in obtaining the Policy or in pursuing a claim under the Policy;
- (3) An act or omission by you that substantially increases or changes the risk insured;
- (4) Refusal by you to eliminate known conditions that increase the potential for loss after notification by us that the condition must be removed;
- (5) Substantial change in the risk assumed, except to the extent that we should reasonably have foreseen the change or contemplated the risk in writing the contract;
- (6) Loss of reinsurance by us which provided coverage to us for a significant amount of the underlying risk insured. Any notice of cancellation pursuant to this item shall advise the policyholder that he or she has 10 days from the date of receipt of the notice to appeal the cancellation to the commissioner of commerce and that the commissioner will render a decision as to whether the cancellation is justified because of the loss of reinsurance within 30 business days after receipt of the appeal;
- (7) A determination by the commissioner that the continuation of the Policy could place us in violation of the Minnesota insurance laws; or
- (8) Nonpayment of dues to an association or organization, other than an insurance association or organization, where payment of dues is a prerequisite to obtaining or continuing such insurance. This provision for cancellation for failure to pay dues shall not be applicable to persons who are retired at 62 years of age or older or who are disabled according to social security standards.

Under this Paragraph **A.3.b.**, we will give notice at least:

- (1) 10 days before the effective date of cancellation, if we cancel for nonpayment of premium. The cancellation notice shall contain the information regarding the amount of premium due and the due date, and shall state the effect of nonpayment by the due date. Cancellation shall not be effective if payment of the amount due is made prior to the effective date of cancellation; or
 - (2) 60 days before the effective date, if we cancel for a reason described in **3.b.(2)** through **(8)** above. The notice of cancellation will state the reason for cancellation.
4. If this Policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
 5. If this Policy includes liquor liability coverage with respect to "injury" arising out of the selling, serving or furnishing of alcoholic beverages, then the following provisions shall apply:

If this Policy is cancelled by us, we will notify, in writing, the governmental authority in the State of Minnesota that issued the current liquor license to the Named Insured that the Policy is being cancelled at the same time that the cancellation notice is sent to the first Named Insured.

If the first Named Insured cancels, we will notify, in writing, the governmental authority in the State of Minnesota that issued the current liquor license to the Named Insured that the Policy is being cancelled upon receiving the written notice of cancellation from the first Named Insured.
 6. Unless otherwise specifically required, proof of mailing of any notice shall be sufficient proof of notice.

2. Paragraph **C. Concealment, Misrepresentation Or Fraud** is replaced by the following with respect to loss or damage caused by fire:

C. Concealment, Misrepresentation Or Fraud

We do not provide coverage to the insured who has:

1. Before a loss, willfully; or
2. After a loss, willfully and with intent to defraud;

concealed or misrepresented any material fact or circumstances concerning:

- a. This Policy;
- b. The Covered Property;
- c. That insured's interest in the Covered Property; or
- d. A claim under this Policy.

3. Paragraph **C. Concealment, Misrepresentation Or Fraud** is replaced by the following with respect to loss or damage caused by a Covered Cause of Loss other than fire:

C. Concealment, Misrepresentation Or Fraud

We will not pay for any loss or damage if any insured has:

1. Before a loss, willfully; or
2. After a loss, willfully and with intent to defraud;

concealed or misrepresented any material fact or circumstances concerning:

- a. This Policy;
- b. The Covered Property;
- c. That insured's interest in the Covered Property; or
- d. A claim under this Policy.

4. Paragraph **D. Examination Of Your Books And Records** is replaced by the following:

D. Examination Of Your Books And Records

We may examine and audit your books and records as they relate to this Policy at any time during the policy period and up to one year afterward.

5. Paragraph **K. Transfer Of Rights Of Recovery Against Others To Us** is replaced by the following:

K. Transfer Of Rights Of Recovery Against Others To Us

1. Applicable to Businessowners Property Coverage:

If any person or organization to or for whom we make payment under this Policy has rights to recover damages from another, those rights are transferred to us to the extent of our payment. That person or organization must do everything necessary to secure our rights and must do nothing after loss to impair them. However, our rights do not apply against:

- a. An insured; or
- b. Any person or organization insured under another policy which was issued by us and responds to the same loss;

provided the loss was not intentionally caused by such insureds.

2. You may waive your rights against another party in writing:

- a. Prior to a loss to your Covered Property.
- b. After a loss to your Covered Property only if, at the time of loss, that party is one of the following:

- (1) Someone insured by this insurance, unless the loss was caused intentionally by such insured;

- (2) A business firm:

- (a) Owned or controlled by you; or
- (b) That owns or controls you; or

- (3) Your tenant.

You may also accept the usual bills of lading or shipping receipts limiting the liability of carriers.

This will not restrict your insurance.

3. Applicable to Businessowners Liability Coverage:

If the insured has rights to recover all or part of any payment we have made under this Policy, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

Our rights do not apply against any person or organization insured under this or any other policy we issue with respect to the same "occurrence", provided the "occurrence" was not intentionally caused by such insureds.

6. The following is added:

M. Nonrenewal

If we decide not to renew this Policy, we may do so by giving the first Named Insured and any agent written notice of our intent not to renew at least 60 days before the expiration date of this Policy. Such notice will be delivered or mailed by first-class mail to their last mailing addresses known to us.

We need not mail or deliver this notice if you have:

- 1. Insured elsewhere;
- 2. Accepted replacement coverage; or
- 3. Agreed not to renew this Policy.

Unless otherwise specifically required, proof of mailing of any notice shall be sufficient proof of notice.

E. The following changes apply only to Information Security Protection Endorsement **BP 15 07** if it is attached to this Policy:

1. Paragraph **(2)** of Insuring Agreement **d. Security Breach Liability** is replaced by the following:

(2) We will pay for "defense expenses" as a result of a "claim" in the form of a "regulatory proceeding" first made against the insured during the "policy period" or during the applicable Extended Reporting Period, in response to a "wrongful act" or a series of "interrelated wrongful acts" covered under Paragraph **d.(1)**.

2. The following is added to the **Limits Of Insurance** Provision under Paragraph **K.:**

In addition to the Information Security Protection Aggregate Limit of Insurance, we will pay prejudgment interest awarded against the insured on the part of the judgment we pay. If we make an offer to pay the Information Security Protection Aggregate Limit of Insurance, we will not pay any prejudgment interest based on that period of time after the offer.

3. The **Duties In The Event Of Claim Or Loss** Condition under Paragraph **M.** is replaced by the following:

Duties In The Event Of Claim Or Loss

In the event of either an occurrence or offense that may result in a "claim" against an insured or a "loss" or situation that may result in a "loss" covered under this Endorsement, you must see to it that we or our agent is notified orally or in writing as soon as practicable, but not to exceed 30 days, and cooperate with us in the investigation and settlement of the "claim" or "loss" as set forth below:

a. For "claims" covered under Insuring Agreements **d. Security Breach Liability** and **g. Web Site Publishing Liability**, you must:

- (1)** Immediately record the specifics of the "claim" and the date received;
- (2)** Immediately send us or our agent copies of any demands, notices, summonses or legal papers received in connection with the "claim";
- (3)** Authorize us to obtain records and other information; and

(4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to you because of an occurrence or offense to which this Endorsement may also apply.

You will not, except at your own cost, voluntarily make a payment, assume any obligation or incur any expense without our consent.

A "claim" brought by a person or organization seeking damages will be deemed to have been made when the "claim" is received by an insured.

b. Under Insuring Agreement **a. Replacement Or Restoration Of Electronic Data** and Insuring Agreement **e. Extortion Threats**, you must:

- (1)** Notify local law enforcement officials;
- (2)** Submit to examination under oath at our request and give us a signed statement of your answers; and
- (3)** Give us a detailed, sworn proof of loss within 120 days.
- (4)** In addition, under Insuring Agreement **e. Extortion Threats**, you must:
 - (a)** Determine that the "extortion threat" has actually occurred;
 - (b)** Make every reasonable effort to immediately notify an associate and the security firm, if any, before making any "ransom payment" based upon the "extortion threat";
 - (c)** With respect to "ransomware", make a reasonable effort to access your "electronic data" from backup; and
 - (d)** Approve any "ransom payment" based upon the "extortion threat".

4. Paragraph **d.** of the definition of "loss" in Paragraph **V.** is replaced by the following:

d. With respect to Insuring Agreements **d. Security Breach Liability** and **g. Web Site Publishing Liability**:

Compensatory damages, settlement amounts and costs awarded pursuant to judgments or settlements. "Loss" does not include:

- (1)** Civil or criminal fines or penalties imposed by law;

- (2) Punitive or exemplary damages;
- (3) The multiplied portion of multiplied damages;
- (4) Taxes;
- (5) Royalties;
- (6) The amount of any disgorged profits; or
- (7) Matters that are uninsurable pursuant to law.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - ASBESTOS OR ASBESTOS PRODUCTS

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

A. The following exclusion is added to Paragraph **B. Exclusions** in **Section II - Liability**:

B. Exclusions

This insurance does not apply to:

ASBESTOS OR ASBESTOS PRODUCTS

1. "Bodily injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, or ingestion of, asbestos, asbestos fibers, asbestos dust or any product containing asbestos.
2. "Property damage" arising, in whole or in part, out of the actual, alleged, threatened or suspected contact with, exposure to, existence of, or presence of, asbestos, asbestos fibers, asbestos dust or any product containing asbestos.

3. "Personal and advertising injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, asbestos, asbestos fibers, asbestos dust or any product containing asbestos.
4. Any loss, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to or assessing the effects of, asbestos, asbestos fibers, asbestos dust, or any product that contains asbestos, by any insured or by any other person or entity.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LEAD LIABILITY EXCLUSION

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

The following exclusion is added to Paragraph **B.1. Exclusions - Applicable to Business Liability Coverage** in **Section II - Liability**:

This insurance does not apply to:

t. Lead Liability

- (1) Actual or alleged "bodily injury" arising out of the ingestion, inhalation, or absorption of lead in any form;
- (2) Actual or alleged "property damage" or "personal and advertising injury" arising out of any form of lead;

- (3) Any loss, cost or expense arising out of any request, demand or order to test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, or in any way respond to or assess the effects of lead; or

- (4) Any loss, cost or expense arising from any claim or "suit" by or on behalf of any governmental authority for damages resulting from the testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to or assessing the effects of lead.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - PUNITIVE DAMAGES

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

The following is added to **Section II - Liability B. Exclusions** and supersedes any provision to the contrary:

This insurance does not apply to punitive or exemplary damages.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

IDENTITY RECOVERY COVERAGE
IDENTITY THEFT CASE MANAGEMENT SERVICE AND EXPENSE REIMBURSEMENT

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

The following is added as an Additional Coverage under Section 1 - Property.

IDENTITY RECOVERY COVERAGE

We will provide the Case Management Service and Expense Reimbursement Coverage indicated below if all of the following requirements are met:

1. There has been an identity theft involving the personal identity of an identity recovery insured under this policy; and
2. Such identity theft is first discovered by the identity recovery insured during the policy period for which this Identity Recovery Coverage is applicable; and
3. Such identity theft is reported to us within 60 days after it is first discovered by the identity recovery insured.

If all three of the requirements listed above have been met, then we will provide the following to the identity recovery insured:

1. Case Management Service

Services of an identity recovery case manager as needed to respond to the identity theft; and

2. Expense Reimbursement

Reimbursement of necessary and reasonable identity recovery expenses incurred as a direct result of the identity theft.

This coverage is additional insurance.

EXCLUSIONS

The following additional exclusions apply to this coverage:

We do not cover loss or expense arising from any of the following:

1. The theft of a professional or business identity.

2. Any fraudulent, dishonest or criminal act by an "identity recovery insured" or any person aiding or abetting an "identity recovery insured", or by any authorized representative of an "identity recovery insured", whether acting alone or in collusion with others. However, this exclusion shall not apply to the interests of an identity recovery insured who has no knowledge of or involvement in such fraud, dishonesty or criminal act.

3. An identity theft that is not reported in writing to the police.

LIMITS

Case Management Service is available as needed for any one identity theft for up to 12 consecutive months from the inception of the service. Expenses we incur to provide Case Management Service do not reduce the amount of limit available for Expense Reimbursement Coverage.

Expense Reimbursement Coverage is subject to a limit of \$15,000 annual aggregate per identity recovery insured. Regardless of the number of claims, this limit is the most we will pay for the total of all loss or expense arising out of all identity thefts to any one identity recovery insured which are first discovered by the identity recovery insured during a 12-month period starting with the beginning of the present annual policy period. If an identity theft is first discovered in one policy period and continues into other policy periods, all loss and expense arising from such identity theft will be subject to the aggregate limit applicable to the policy period when the identity theft was first discovered.

Legal costs as provided under item d. of the definition of identity recovery expenses are part of, and not in addition to, the Expense Reimbursement Coverage limit.

Item e. (Lost Wages) and item f. (Child and Elder Care Expenses) of the definition of identity recovery expenses are jointly subject to a sublimit of \$5,000. This sublimit is part of, and not in addition to, the Expense Reimbursement Coverage limit. Coverage is

limited to wages lost and expenses incurred within 12 months after the first discovery of the identity theft by the identity recovery insured.

Item g. (Mental Health Counseling) of the definition of identity recovery expenses is subject to a sublimit of \$1,000. This sublimit is part of, and not in addition to, the Expense Reimbursement Coverage limit. Coverage is limited to counseling that takes place within 12 months after the first discovery of the identity theft by the identity recovery insured.

Item h. (Miscellaneous Unnamed Costs) of the definition of identity recovery expenses is subject to a sublimit of \$1,000. This sublimit is part of, and not in addition to, the Expenses Reimbursement Coverage limit. Coverage is limited to costs incurred within 12 months after the first discovery of the identity theft by the identity recovery insured.

DEDUCTIBLE

Case Management Service is not subject to a deductible.

Expense Reimbursement Coverage is subject to a deductible of \$100. Any one identity recovery insured shall be responsible for only one deductible under this Identity Recovery Coverage during any one policy period.

No other deductible applies to the Identity Recovery Coverage.

CONDITIONS

The following additional conditions apply to this coverage:

A. Help Line

For assistance, the identity recovery insured should call the **Identity Recovery Help Line** at **1-866-221-3470**.

The **Identity Recovery Help Line** can provide the identity recovery insured with:

1. Information and advice for how to respond to a possible identity theft; and
2. Instructions for how to submit a service request for Case Management Service and/or a claim form for Expense Reimbursement Coverage.

In some cases, we may provide Case Management services at our expense to an identity recovery insured prior to a determination that a covered identity theft has occurred. Our provision of such services is not an admission of liability under the policy. We reserve the right to deny further coverage or service if, after investigation, we determine that a covered identity theft has not occurred.

As respects Expense Reimbursement Coverage, the identity recovery insured must send to us, within 60 days after our request, receipts, bills or other records that support his or her claim for "identity recovery expenses."

B. Services

The following conditions apply as respects any services provided by us or our designees to any identity recovery insured under this endorsement:

1. Our ability to provide helpful services in the event of an identity theft depends on the cooperation, permission and assistance of the identity recovery insured.
2. All services may not be available or applicable to all individuals. For example, identity recovery insureds who are minors or foreign nationals may not have credit records that can be provided or monitored. Service in Canada will be different from service in the United States and Puerto Rico in accordance with local conditions.
3. We do not warrant or guarantee that our services will end or eliminate all problems associated with an identity theft or prevent future identity thefts.

DEFINITIONS

With respect to the provisions of this endorsement only, the following definitions are added:

1. **"Identity Recovery Case Manager"** means one or more individuals assigned by us to assist an identity recovery insured with communications we deem necessary for re-establishing the integrity of the personal identity of the identity recovery insured. This includes, with the permission and cooperation of the identity recovery insured, written and telephone communications with law enforcement authorities, governmental agencies, credit agencies and individual creditors and businesses.

2. "Identity Recovery Expenses" means the following when they are reasonable and necessary expenses that are incurred as a direct result of an identity theft:
- a. Costs for re-filing applications for loans, grants or other credit instruments that are rejected solely as a result of an identity theft.
 - b. Costs for notarizing affidavits or other similar documents, long distance telephone calls and postage solely as a result of your efforts to report an identity theft or amend or rectify records as to your true name or identity as a result of an identity theft.
 - c. Costs for credit reports from established credit bureaus.
 - d. Fees and expenses for an attorney approved by us for the following:
 - (1) The defense of any civil suit brought against an identity recovery insured.
 - (2) The removal of any civil judgment wrongfully entered against an identity recovery insured.
 - (3) Legal assistance for an identity recovery insured at an audit or hearing by a governmental agency.
 - (4) Legal assistance in challenging the accuracy of the identity recovery insured's consumer credit report.
 - (5) The defense of any criminal charges brought against an identity recovery insured arising from the actions of a third party using the personal identity of the identity recovery insured.
 - e. Actual lost wages of the identity recovery insured for time reasonably and necessarily taken away from work and away from the work premises. Time away from work includes partial or whole work days. Actual lost wages may include payment for vacation days, discretionary days, floating holidays and paid personal days. Actual lost wages does not include sick days or any loss arising from time taken away from self employment. Necessary time off does not include time off to do tasks that could reasonably have been done during non-working hours.
 - f. Actual costs for supervision of children or elderly or infirm relatives or dependants of the identity recovery insured during time reasonably and necessarily taken away from such supervision. Such care must be provided by a professional care provider who is not a relative of the identity recovery insured.
 - g. Actual costs for counseling from a licensed mental health professional. Such care must be provided by a professional care provider who is not a relative of the identity recovery insured.
 - h. Any other reasonable costs necessarily incurred by an identity recovery insured as a direct result of the identity theft.
 - (1) Such costs include:
 - (a) Costs by the identity recovery insured to recover control over his or her personal identity.
 - (b) Deductibles or service fees from financial institutions.
 - (2) Such costs do not include:
 - (a) Costs to avoid, prevent or detect identity theft or other loss.
 - (b) Money lost or stolen.
 - (c) Costs that are restricted or excluded elsewhere in this endorsement or policy.
3. Identity Recovery Insured means the following:
- a. When the entity insured under this policy is a sole proprietorship, the identity recovery insured is the individual person who is the sole proprietor of the insured entity.
 - b. When the entity insured under this policy is a partnership, the identity recovery insureds are the current partners.
 - c. When the entity insured under this policy is a corporation or other organization, the identity recovery insureds are all individuals having an ownership position of 20% or more of the insured entity. However, if and only if there is no one who has such an ownership position, then the identity recovery insured shall be:
 - (1) The chief executive of the insured entity; or

An identity recovery insured must always be an individual person. The entity insured under this policy is not an identity recovery insured.

4. **Identity Theft** means the fraudulent use of the social security number or other method of identifying an identity recovery insured. This includes fraudulently using the personal identity of an identity recovery insured to establish credit accounts, secure loans, enter into contracts or commit crimes.

Identity theft does not include the fraudulent use of a business name, d/b/a or any other method of identifying a business activity.

All other provisions of this policy apply.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – UNMANNED AIRCRAFT

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

Section II – Liability is amended as follows:

A. Exclusion **1.g.** under Paragraph **B. Exclusions** is replaced by the following:

This insurance does not apply to:

g. Aircraft, Auto or Watercraft

(1) Unmanned Aircraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft". Use includes operation and "loading or unloading".

This Paragraph **g.(1)** applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft".

(2) Aircraft (Other Than Unmanned Aircraft), Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft (other than "unmanned aircraft"), "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This Paragraph **g.(2)** applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft (other than "unmanned aircraft"), "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This Paragraph **g.(2)** does not apply to:

- (a)** A watercraft while ashore on premises you own or rent;
- (b)** A watercraft you do not own that is:
 - (i)** Less than 51 feet long; and
 - (ii)** Not being used to carry persons or property for a charge;
- (c)** Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (d)** Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or
- (e)** "Bodily injury" or "property damage" arising out of:
 - (i)** The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or
 - (ii)** The operation of any of the following machinery or equipment:
 - i.** Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
 - ii.** Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lightning and well servicing equipment.

- B.** The following exclusion is added to paragraph **1.p.** under Paragraph **B. Exclusions:**

This insurance does not apply to:

p. Personal And Advertising Injury

"Personal and advertising injury" arising out of the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft". Use includes operations and "loading or unloading".

This exclusion applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the offense which caused the "personal and advertising injury" involved the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft".

This exclusion does not apply to:

- (a)** The use of another's advertising idea in your "advertisement"; or
- (b)** Infringing upon another's copyright, trade dress or slogan in your "advertisement".

- C.** The following definition is added to Paragraph **F. Liability And Medical Expenses Definitions:**

"Unmanned aircraft" means an aircraft that is not:

- a.** Designed;
- b.** Manufactured; or
- c.** Modified after manufacture;

to be controlled directly by a person from within or on the aircraft.

BUSINESSOWNERS COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this Coverage Form, the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the company providing this insurance.

In Section II – Liability, the word "insured" means any person or organization qualifying as such under Paragraph C. Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Paragraph H. Property Definitions in Section I – Property and Paragraph F. Liability And Medical Expenses Definitions in Section II – Liability.

SECTION I – PROPERTY

A. Coverage

We will pay for direct physical loss of or damage to Covered Property at the premises described in the Declarations caused by or resulting from any Covered Cause of Loss.

1. Covered Property

Covered Property includes Buildings as described under Paragraph a. below, Business Personal Property as described under Paragraph b. below, or both, depending on whether a Limit Of Insurance is shown in the Declarations for that type of property. Regardless of whether coverage is shown in the Declarations for Buildings, Business Personal Property, or both, there is no coverage for property described under Paragraph 2. Property Not Covered.

a. Buildings, meaning the buildings and structures at the premises described in the Declarations, including:

- (1)** Completed additions;
- (2)** Fixtures, including outdoor fixtures;
- (3)** Permanently installed:
 - (a)** Machinery; and
 - (b)** Equipment;
- (4)** Your personal property in apartments, rooms or common areas furnished by you as landlord;

(5) Personal property owned by you that is used to maintain or service the buildings or structures or the premises, including:

- (a)** Fire extinguishing equipment;
- (b)** Outdoor furniture;
- (c)** Floor coverings; and
- (d)** Appliances used for refrigerating, ventilating, cooking, dishwashing or laundering;

(6) If not covered by other insurance:

- (a)** Additions under construction, alterations and repairs to the buildings or structures;
- (b)** Materials, equipment, supplies and temporary structures, on or within 100 feet of the described premises, used for making additions, alterations or repairs to the buildings or structures.

b. Business Personal Property located in or on the buildings or structures at the described premises or in the open (or in a vehicle) within 100 feet of the buildings or structures or within 100 feet of the premises described in the Declarations, whichever distance is greater, including:

- (1)** Property you own that is used in your business;
- (2)** Property of others that is in your care, custody or control, except as otherwise provided in Loss Payment Property Loss Condition Paragraph E.5.d.(3)(b);
- (3)** Tenant's improvements and betterments. Improvements and betterments are fixtures, alterations, installations or additions:
 - (a)** Made a part of the building or structure you occupy but do not own; and
 - (b)** You acquired or made at your expense but cannot legally remove;
- (4)** Leased personal property which you have a contractual responsibility to insure, unless otherwise provided for under Paragraph 1.b.(2); and

- (5) Exterior building glass, if you are a tenant and no Limit Of Insurance is shown in the Declarations for Building property. The glass must be owned by you or in your care, custody or control.

2. Property Not Covered

Covered Property does not include:

- a. Aircraft, automobiles, motortrucks and other vehicles subject to motor vehicle registration;
- b. "Money" or "securities" except as provided in the:
 - (1) Money And Securities Optional Coverage; or
 - (2) Employee Dishonesty Optional Coverage;
- c. Contraband, or property in the course of illegal transportation or trade;
- d. Land (including land on which the property is located), water, growing crops or lawns (other than lawns which are part of a vegetated roof);
- e. Outdoor fences, radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers, signs (other than signs attached to buildings), trees, shrubs or plants (other than trees, shrubs or plants which are part of a vegetated roof), all except as provided in the:
 - (1) Outdoor Property Coverage Extension; or
 - (2) Outdoor Signs Optional Coverage;
- f. Watercraft (including motors, equipment and accessories) while afloat;
- g. Accounts, bills, food stamps, other evidences of debt, accounts receivable or "valuable papers and records"; except as otherwise provided in this policy;
- h. "Computer(s)" which are permanently installed or designed to be permanently installed in any aircraft, watercraft, motortruck or other vehicle subject to motor vehicle registration. This paragraph does not apply to "computer(s)" while held as "stock";
- i. "Electronic data", except as provided under Additional Coverages – Electronic Data. This Paragraph i. does not apply to your "stock" of prepackaged software or to "electronic data" which is integrated in and operates or controls the building's elevator, lighting, heating, ventilation, air conditioning or security system; or
- j. Animals, unless owned by others and boarded by you, or if owned by you, only as "stock" while inside of buildings.

3. Covered Causes Of Loss

Direct physical loss unless the loss is excluded or limited under Section I – Property.

4. Limitations

- a. We will not pay for loss of or damage to:
 - (1) Steam boilers, steam pipes, steam engines or steam turbines caused by or resulting from any condition or event inside such equipment. But we will pay for loss of or damage to such equipment caused by or resulting from an explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.
 - (2) Hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment, other than an explosion.
 - (3) Property that is missing, where the only evidence of the loss or damage is a shortage disclosed on taking inventory, or other instances where there is no physical evidence to show what happened to the property. This limitation does not apply to the Optional Coverage for Money and Securities.
 - (4) Property that has been transferred to a person or to a place outside the described premises on the basis of unauthorized instructions.
 - (5) The interior of any building or structure, or to personal property in the building or structure, caused by or resulting from rain, snow, sleet, ice, sand or dust, whether driven by wind or not, unless:
 - (a) The building or structure first sustains damage by a Covered Cause of Loss to its roof or walls through which the rain, snow, sleet, ice, sand or dust enters; or

- (b) The loss or damage is caused by or results from thawing of snow, sleet or ice on the building or structure.
- (6) Lawns, trees, shrubs or plants which are part of a vegetated roof, caused by or resulting from:
 - (a) Dampness or dryness of atmosphere or of soil supporting the vegetation;
 - (b) Changes in or extremes of temperature;
 - (b) Disease;
 - (d) Frost or hail; or
 - (e) Rain, snow, ice or sleet.
- b. We will not pay for loss of or damage to the following types of property unless caused by the "specified causes of loss" or building glass breakage:
 - (1) Animals, and then only if they are killed or their destruction is made necessary.
 - (2) Fragile articles such as glassware, statuary, marble, chinaware and porcelain, if broken. This restriction does not apply to:
 - (a) Glass that is part of the exterior or interior of a building or structure;
 - (b) Containers of property held for sale; or
 - (c) Photographic or scientific instrument lenses.
- c. For loss or damage by theft, the following types of property are covered only up to the limits shown (unless a higher Limit Of Insurance is shown in the Declarations):
 - (1) \$2,500 for furs, fur garments and garments trimmed with fur.
 - (2) \$2,500 for jewelry, watches, watch movements, jewels, pearls, precious and semiprecious stones, bullion, gold, silver, platinum and other precious alloys or metals. This limit does not apply to jewelry and watches worth \$100 or less per item.
 - (3) \$2,500 for patterns, dies, molds and forms.

5. Additional Coverages

a. Debris Removal

- (1) Subject to Paragraphs (2), (3) and (4), we will pay your expense to remove debris of Covered Property and other debris that is on the described premises, when such debris is caused by or results from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date of direct physical loss or damage.
- (2) Debris Removal does not apply to costs to:
 - (a) Remove debris of property of yours that is not insured under this policy, or property in your possession that is not Covered Property;
 - (b) Remove debris of property owned by or leased to the landlord of the building here our described premises are located, unless you have a contractual responsibility to insure such property and it is insured under this policy;
 - (c) Remove any property that is Property Not Covered, including property addressed under the Outdoor Property Coverage Extension;
 - (d) Remove property of others of a type that would not be Covered Property under this policy;
 - (e) Remove deposits of mud or earth from the grounds of the described premises;
 - (f) Extract "pollutants" from land or water; or
 - (g) Remove, restore or replace polluted land or water.
- (3) Subject to the exceptions in Paragraph (4), the following provisions apply:
 - (a) The most that we will pay for the total of direct physical loss or damage plus debris removal expense is the Limit of Insurance applicable to the Covered Property that has sustained loss or damage.

(b) Subject to Paragraph (3)(a) above, the amount we will pay for debris removal expense is limited to 25% of the sum of the deductible plus the amount that we pay for direct physical loss or damage to the Covered Property that has sustained loss or damage. However, if no Covered Property has sustained direct physical loss or damage, the most we will pay for removal of debris of other property (if such removal is covered under this Additional Coverage) is \$5,000 at each location.

(4) We will pay up to an additional \$25,000 for debris removal expense, for each location, in any one occurrence of physical loss or damage to Covered Property, if one or both of the following circumstances apply:

(a) The total of the actual debris removal expense plus the amount we pay for direct physical loss or damage exceeds the Limit of Insurance on the Covered Property that has sustained loss or damage.

(b) The actual debris removal expense exceeds 25% of the sum of the deductible plus the amount that we pay for direct physical loss or damage to the Covered Property that has sustained loss or damage.

Therefore, if Paragraphs (4)(a) and/or (4)(b) apply, our total payment for direct physical loss or damage and debris removal expense may reach but will never exceed the Limit of Insurance on the Covered Property that has sustained loss or damage, plus \$25,000.

(5) Examples

Example 1

Limit of Insurance	\$ 90,000
Amount of Deductible	\$ 500
Amount of Loss	\$ 50,000
Amount of Loss Payable	\$ 49,500
	(\$50,000 - \$500)
Debris Removal Expense	\$ 10,000
Debris Removal Expense Payable	\$ 10,000
	(\$10,000 is 20% of \$50,000)

The debris removal expense is less than 25% of the sum of the loss payable plus the deductible. The sum of the loss payable and the debris removal expense (\$49,500 + \$10,000 = \$59,500) is less than the Limit of Insurance. Therefore, the full amount of debris removal expense is payable in accordance with the terms of Paragraph (3).

Example 2

Limit of Insurance	\$ 90,000
Amount of Deductible	\$ 500
Amount of Loss	\$ 80,000
Amount of Loss Payable	\$ 79,500
	(\$80,000 - \$500)
Debris Removal Expense	\$ 40,000
Debris Removal Expense Payable	
Basic Amount	\$ 10,500
Additional Amount	\$ 25,000

The basic amount payable for debris removal expense under the terms of Paragraph (3) is calculated as follows: \$80,000 (\$79,500 + \$500) x .25 = \$20,000; capped at \$10,500. The cap applies because the sum of the loss payable (\$79,500) and the basic amount payable for debris removal expense (\$10,500) cannot exceed the Limit of Insurance (\$90,000).

The additional amount payable for debris removal expense is provided in accordance with the terms of Paragraph (4), because the debris removal expense (\$40,000) exceeds 25% of the loss payable plus the deductible (\$40,000 is 50% of \$80,000), and because the sum of the loss payable and debris removal expense (\$79,500 + \$40,000 = \$119,500) would exceed the Limit of Insurance (\$90,000). The additional amount of covered debris removal expense is \$25,000, the maximum payable under Paragraph (4). Thus, the total payable for debris removal in this example is \$35,000; \$4,500 of the debris removal expense is not covered.

b. Preservation Of Property

If it is necessary to move Covered Property from the described premises to preserve it from loss or damage by a Covered Cause of Loss, we will pay for any direct physical loss of or damage to that property:

- (1) While it is being moved or while temporarily stored at another location; and
- (2) Only if the loss or damage occurs within 30 days after the property is first moved.

c. Fire Department Service Charge

When the fire department is called to save or protect Covered Property from a Covered Cause of Loss, we will pay up to \$2,500 for service at each premises described in the Declarations, unless a different limit is shown in the Declarations. Such limit is the most we will pay regardless of the number of responding fire departments or fire units, and regardless of the number or type of services performed.

This Additional Coverage applies to your liability for fire department service charges:

- (1) Assumed by contract or agreement prior to loss; or
- (2) Required by local ordinance.

d. Collapse

The coverage provided under this Additional Coverage – Collapse applies only to an abrupt collapse as described and limited in Paragraphs **d.(1)** through **d.(7)**.

- (1) For the purpose of this Additional Coverage – Collapse, abrupt collapse means an abrupt falling down or caving in of a building or any part of a building with the result that the building or part of the building cannot be occupied for its intended purpose.
- (2) We will pay for direct physical loss or damage to Covered Property, caused by abrupt collapse of a building or any part of a building that is insured under this policy or that contains Covered Property insured under this policy, if such collapse is caused by one or more of the following:
 - (a) Building decay that is hidden from view, unless the presence of such decay is known to an insured prior to collapse;

- (b) Insect or vermin damage that is hidden from view, unless the presence of such damage is known to an insured prior to collapse;

- (c) Use of defective material or methods in construction, remodeling or renovation if the abrupt collapse occurs during the course of the construction, remodeling or renovation.

- (d) Use of defective material or methods in construction, remodeling or renovation if the abrupt collapse occurs after the construction, remodeling or renovation is complete, but only if the collapse is caused in part by:
 - (i) A cause of loss listed in Paragraph **(2)(a)** or **(2)(b)**;
 - (ii) One or more of the "specified causes of loss";
 - (iii) Breakage of building glass;
 - (iv) Weight of people or personal property; or
 - (v) Weight of rain that collects on a roof.

(3) This Additional Coverage – Collapse does **not** apply to:

- (a) A building or any part of a building that is in danger of falling down or caving in;

- (b) A part of a building that is standing, even if it has separated from another part of the building; or

- (c) A building that is standing or any part of a building that is standing, even if it shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.

(4) With respect to the following property:

- (a) Awnings;

- (b) Gutters and downspouts;

- (c) Yard fixtures;

- (d) Outdoor swimming pools;

- (e) Piers, wharves and docks;

- (f) Beach or diving platforms or appurtenances;

- (g) Retaining walls; and

- (h) Walks, roadways and other paved surfaces;

if an abrupt collapse is caused by a cause of loss listed in Paragraphs **(2)(a)** through **(2)(d)**, we will pay for loss or damage to that property only if such loss or damage is a direct result of the abrupt collapse of a building insured under this policy and the property is Covered Property under this policy.

- (5)** If personal property abruptly falls down or caves in and such collapse is **not** the result of abrupt collapse of a building, we will pay for loss or damage to Covered Property caused by such collapse of personal property only if:

- (a)** The collapse of personal property was caused by a cause of loss listed in Paragraphs **(2)(a)** through **(2)(d)** of this Additional Coverage;
- (b)** The personal property which collapses is inside a building; and
- (c)** The property which collapses is not of a kind listed in Paragraph **(4)**, regardless of whether that kind of property is considered to be personal property or real property.

The coverage stated in this Paragraph **(5)** does not apply to personal property if marring and/or scratching is the only damage to that personal property caused by the collapse.

- (6)** This Additional Coverage – Collapse does not apply to personal property that has not abruptly fallen down or caved in, even if the personal property shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.
- (7)** This Additional Coverage – Collapse will not increase the Limits of Insurance provided in this policy.
- (8)** The term Covered Cause of Loss includes the Additional Coverage – Collapse as described and limited in Paragraphs **d.(1)** through **d.(7)**.

e. Water Damage, Other Liquids, Powder Or Molten Material Damage

If loss or damage caused by or resulting from covered water or other liquid, powder or molten material occurs, we will also pay the cost to tear out and replace any part of the building or structure to repair damage to the system or appliance from which the water or other substance escapes.

We will not pay the cost to repair any defect that caused the loss or damage, but we will pay the cost to repair or replace damaged parts of fire extinguishing equipment if the damage:

- (1)** Results in discharge of any substance from an automatic fire protection system; or
- (2)** Is directly caused by freezing.

f. Business Income

(1) Business Income

- (a)** We will pay for the actual loss of Business Income you sustain due to the necessary suspension of your "operations" during the "period of restoration". The suspension must be caused by direct physical loss of or damage to property at the described premises. The loss or damage must be caused by or result from a Covered Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 100 feet of such premises.

With respect to the requirements set forth in the preceding paragraph, if you occupy only part of a building, your premises mean:

- (i)** The portion of the building which you rent, lease or occupy;
- (ii)** The area within 100 feet of the building or within 100 feet of the premises described in the Declarations, whichever distance is greater (with respect to loss of or damage to personal property in the open or personal property in a vehicle); and
- (iii)** Any area within the building or at the described premises, if that area services, or is used to gain access to, the portion of the building which you rent, lease or occupy.

(b) We will only pay for loss of Business Income that you sustain during the "period of restoration" and that occurs within 12 consecutive months after the date of direct physical loss or damage. We will only pay for ordinary payroll expenses for 60 days following the date of direct physical loss or damage, unless a greater number of days is shown in the Declarations.

(c) Business Income means the:

(i) Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred if no physical loss or damage had occurred, but not including any Net Income that would likely have been earned as a result of an increase in the volume of business due to favorable business conditions caused by the impact of the Covered Cause of Loss on customers or on other businesses; and

(ii) Continuing normal operating expenses incurred, including payroll.

(d) Ordinary payroll expenses:

(i) Means payroll expenses for all your employees except:

- i. Officers;
- ii. Executives;
- iii. Department Managers;
- iv. Employees under contract; and
- v. Additional Exemptions shown in the Declarations as:

- Job Classifications; or
- Employees.

(ii) Include:

- i. Payroll;
- ii. Employee benefits, if directly related to payroll;
- iii. FICA payments you pay;
- iv. Union dues you pay; and
- v. Workers' compensation premiums.

(2) Extended Business Income

(a) If the necessary suspension of your "operations" produces a Business Income loss payable under this policy, we will pay for the actual loss of Business Income you incur during the period that:

(i) Begins on the date property except finished stock is actually repaired, rebuilt or replaced and "operations" are resumed; and

(ii) Ends on the earlier of:

i. The date you could restore your "operations", with reasonable speed, to the level which would generate the Business Income amount that would have existed if no direct physical loss or damage had occurred; or

ii. 60 consecutive days after the date determined in Paragraph **(a)(i)** above, unless a greater number of consecutive days is shown in the Declarations.

However, Extended Business Income does not apply to loss of Business Income incurred as a result of unfavorable business conditions caused by the impact of the Covered Cause of Loss in the area where the described premises are located.

(b) Loss of Business Income must be caused by direct physical loss or damage at the described premises caused by or resulting from any Covered Cause of Loss.

(3) With respect to the coverage provided in this Additional Coverage, suspension means:

(a) The partial slowdown or complete cessation of your business activities; or

(b) That a part or all of the described premises is rendered untenable, if coverage for Business Income applies.

(4) This Additional Coverage is not subject to the Limits of Insurance of Section I – Property.

g. Extra Expense

- (1) We will pay necessary Extra Expense you incur during the "period of restoration" that you would not have incurred if there had been no direct physical loss or damage to property at the described premises. The loss or damage must be caused by or result from a Covered Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 100 feet of such premises.

With respect to the requirements set forth in the preceding paragraph, if you occupy only part of a building, your premises mean:

- (a) The portion of the building which you rent, lease or occupy;
 - (b) The area within 100 feet of the building or within 100 feet of the premises described in the Declarations, whichever distance is greater (with respect to loss of or damage to personal property in the open or personal property in a vehicle); and
 - (c) Any area within the building or at the described premises, if that area services, or is used to gain access to, the portion of the building which you rent, lease or occupy.
- (2) Extra Expense means expense incurred:
- (a) To avoid or minimize the suspension of business and to continue "operations":
 - (i) At the described premises; or
 - (ii) At replacement premises or at temporary locations, including relocation expenses, and costs to equip and operate the replacement or temporary locations.
 - (b) To minimize the suspension of business if you cannot continue "operations".

(c) To:

- (i) Repair or replace any property; or
 - (ii) Research, replace or restore the lost information on damaged "valuable papers and records";
- to the extent it reduces the amount of loss that otherwise would have been payable under this Additional Coverage or Additional Coverage f. Business Income.
- (3) With respect to the coverage provided in this Additional Coverage, suspension means:
- (a) The partial slowdown or complete cessation of your business activities; or
 - (b) That a part or all of the described premises is rendered untenable, if coverage for Business Income applies.
- (4) We will only pay for Extra Expense that occurs within 12 consecutive months after the date of direct physical loss or damage. This Additional Coverage is not subject to the Limits of Insurance of Section I – Property.

h. Pollutant Clean-up And Removal

We will pay your expense to extract "pollutants" from land or water at the described premises if the discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused by or results from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date on which the Covered Cause of Loss occurs.

This Additional Coverage does not apply to costs to test for, monitor or assess the existence, concentration or effects of "pollutants". But we will pay for testing which is performed in the course of extracting the "pollutants" from the land or water.

The most we will pay for each location under this Additional Coverage is \$10,000 for the sum of all such expenses arising out of Covered Causes of Loss occurring during each separate 12-month period of this policy.

i. Civil Authority

When a Covered Cause of Loss causes damage to property other than property at the described premises, we will pay for the actual loss of Business Income you sustain and necessary Extra Expense caused by action of civil authority that prohibits access to the described premises, provided that both of the following apply:

- (1) Access to the area immediately surrounding the damaged property is prohibited by civil authority as a result of the damage, and the described premises are within that area but are not more than one mile from the damaged property; and
- (2) The action of civil authority is taken in response to dangerous physical conditions resulting from the damage or continuation of the Covered Cause of Loss that caused the damage, or the action is taken to enable a civil authority to have unimpeded access to the damaged property.

Civil Authority Coverage for Business Income will begin 72 hours after the time of the first action of civil authority that prohibits access to the described premises and will apply for a period of up to four consecutive weeks from the date on which such coverage began.

Civil Authority Coverage for necessary Extra Expense will begin immediately after the time of the first action of civil authority that prohibits access to the described premises and will end:

- (1) Four consecutive weeks after the date of that action; or
- (2) When your Civil Authority Coverage for Business Income ends;

whichever is later.

The definitions of Business Income and Extra Expense contained in the Business Income and Extra Expense Additional Coverages also apply to this Civil Authority Additional Coverage. The Civil Authority Additional Coverage is not subject to the Limits of Insurance of Section I – Property.

j. Money Orders And "Counterfeit Money"

We will pay for loss resulting directly from your having accepted in good faith, in exchange for merchandise, "money" or services:

- (1) Money orders issued by any post office, express company or bank that are not paid upon presentation; or
- (2) "Counterfeit money" that is acquired during the regular course of business.

The most we will pay for any loss under this Additional Coverage is \$1,000.

k. Forgery Or Alteration

- (1) We will pay for loss resulting directly from forgery or alteration of any check, draft, promissory note, bill of exchange or similar written promise of payment in "money" that you or your agent has issued, or that was issued by someone who impersonates you or your agent.
- (2) If you are sued for refusing to pay the check, draft, promissory note, bill of exchange or similar written promise of payment in "money", on the basis that it has been forged or altered, and you have our written consent to defend against the suit, we will pay for any reasonable legal expenses that you incur in that defense.
- (3) For the purpose of this coverage, check includes a substitute check as defined in the Check Clearing for the 21st Century Act and will be treated the same as the original it replaced.
- (4) The most we will pay for any loss, including legal expenses, under this Additional Coverage is \$2,500, unless a higher Limit Of Insurance is shown in the Declarations.

l. Increased Cost Of Construction

- (1) This Additional Coverage applies only to buildings insured on a replacement cost basis.
- (2) In the event of damage by a Covered Cause of Loss to a building that is Covered Property, we will pay the increased costs incurred to comply with the minimum standards of an ordinance or law in the course of repair, rebuilding or replacement of damaged parts of that property, subject to the limitations stated in Paragraphs (3) through (9) of this Additional Coverage.

(3) The ordinance or law referred to in Paragraph (2) of this Additional Coverage is an ordinance or law that regulates the construction or repair of buildings or establishes zoning or land use requirements at the described premises and is in force at the time of loss.

(4) Under this Additional Coverage, we will not pay any costs due to an ordinance or law that:

(a) You were required to comply with before the loss, even when the building was undamaged; and

(b) You failed to comply with.

(5) Under this Additional Coverage, we will not pay for:

(a) The enforcement of or compliance with any ordinance or law which requires demolition, repair, replacement, reconstruction, remodeling or remediation of property due to contamination by "pollutants" or due to the presence, growth, proliferation, spread or any activity of "fungi", wet rot or dry rot; or

(b) Any costs associated with the enforcement of or compliance with an ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants", "fungi", wet rot or dry rot.

(6) The most we will pay under this Additional Coverage, for each described building insured under Section I – Property, is \$10,000. If a damaged building(s) is covered under a blanket Limit of Insurance which applies to more than one building or item of property, then the most we will pay under this Additional Coverage, for each damaged building, is \$10,000.

The amount payable under this Additional Coverage is additional insurance.

(7) With respect to this Additional Coverage:

(a) We will not pay for the Increased Cost of Construction:

(i) Until the property is actually repaired or replaced, at the same or another premises; and

(ii) Unless the repair or replacement is made as soon as reasonably possible after the loss or damage, not to exceed two years. We may extend this period in writing during the two years.

(b) If the building is repaired or replaced at the same premises, or if you elect to rebuild at another premises, the most we will pay for the Increased Cost of Construction is the increased cost of construction at the same premises.

(c) If the ordinance or law requires relocation to another premises, the most we will pay for the Increased Cost of Construction is the increased cost of construction at the new premises.

(8) This Additional Coverage is not subject to the terms of the Ordinance Or Law Exclusion, to the extent that such exclusion would conflict with the provisions of this Additional Coverage.

(9) The costs addressed in the Loss Payment Property Loss Condition in Section I – Property do not include the increased cost attributable to enforcement of or compliance with an ordinance or law. The amount payable under this Additional Coverage, as stated in Paragraph (6) of this Additional Coverage, is not subject to such limitation.

m. Business Income From Dependent Properties

(1) We will pay for the actual loss of Business Income you sustain due to physical loss or damage at the premises of a dependent property or secondary dependent property caused by or resulting from any Covered Cause of Loss.

However, this Additional Coverage does not apply when the only loss at the premises of a dependent property or secondary dependent property is loss or damage to "electronic data", including destruction or corruption of "electronic data". If the dependent property or secondary dependent property sustains loss or damage to "electronic data" and other property, coverage under this Additional Coverage will not continue once the other property is repaired, rebuilt or replaced.

The most we will pay under this Additional Coverage is \$5,000 unless a higher Limit Of Insurance is indicated in the Declarations.

- (2) We will reduce the amount of your Business Income loss, other than Extra Expense, to the extent you can resume "operations", in whole or in part, by using any other available:
 - (a) Source of materials; or
 - (b) Outlet for your products.
- (3) If you do not resume "operations", or do not resume "operations" as quickly as possible, we will pay based on the length of time it would have taken to resume "operations" as quickly as possible.
- (4) Dependent property means property owned by others whom you depend on to:
 - (a) Deliver materials or services to you, or to others for your account. But services does not mean water supply services, wastewater removal services, communication supply services or power supply services;
 - (b) Accept your products or services;
 - (c) Manufacture your products for delivery to your customers under contract for sale; or
 - (d) Attract customers to your business.

The dependent property must be located in the coverage territory of this policy.
- (5) Secondary dependent property means an entity which is not owned or operated by a dependent property and which:
 - (a) Delivers materials or services to a dependent property, which in turn are used by the dependent property in providing materials or services to you; or

- (b) Accepts materials or services from a dependent property, which in turn accepts your materials or services.

A road, bridge, tunnel, waterway, airfield, pipeline or any other similar area or structure is not a secondary dependent property.

Any property which delivers any of the following services is not a secondary dependent property with respect to such services:

- (i) Water supply services;
- (ii) Wastewater removal services;
- (iii) Communication supply services;
- or
- (iv) Power supply services.

The secondary dependent property must be located in the coverage territory of this policy.

- (6) The coverage period for Business Income under this Additional Coverage:
 - (a) Begins 72 hours after the time of direct physical loss or damage caused by or resulting from any Covered Cause of Loss at the premises of the dependent property or secondary dependent property; and
 - (b) Ends on the date when the property at the premises of the dependent property or secondary dependent property should be repaired, rebuilt or replaced with reasonable speed and similar quality.
- (7) The Business Income coverage period, as stated in Paragraph (6), does not include any increased period required due to the enforcement of or compliance with any ordinance or law that:
 - (a) Regulates the construction, use or repair, or requires the tearing down of any property; or
 - (b) Requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

The expiration date of this policy will not reduce the Business Income coverage period.

- (8) The definition of Business Income contained in the Business Income Additional Coverage also applies to this Business Income From Dependent Properties Additional Coverage.

n. Glass Expenses

- (1) We will pay for expenses incurred to put up temporary plates or board up openings if repair or replacement of damaged glass is delayed.
- (2) We will pay for expenses incurred to remove or replace obstructions when repairing or replacing glass that is part of a building. This does not include removing or replacing window displays.

o. Fire Extinguisher Systems Recharge Expense

- (1) We will pay:
- (a) The cost of recharging or replacing, whichever is less, your fire extinguishers and fire extinguishing systems (including hydrostatic testing if needed) if they are discharged on or within 100 feet of the described premises; and
- (b) For loss or damage to Covered Property if such loss or damage is the result of an accidental discharge of chemicals from a fire extinguisher or a fire extinguishing system.
- (2) No coverage will apply if the fire extinguishing system is discharged during installation or testing.
- (3) The most we will pay under this Additional Coverage is \$5,000 in any one occurrence.

p. Electronic Data

- (1) Subject to the provisions of this Additional Coverage, we will pay for the cost to replace or restore "electronic data" which has been destroyed or corrupted by a Covered Cause of Loss. To the extent that "electronic data" is not replaced or restored, the loss will be valued at the cost of replacement of the media on which the "electronic data" was stored, with blank media of substantially identical type.

- (2) The Covered Causes of Loss applicable to Business Personal Property include a computer virus, harmful code or similar instruction introduced into or enacted on a computer system (including "electronic data") or a network to which it is connected, designed to damage or destroy any part of the system or disrupt its normal operation. But there is no coverage for loss or damage caused by or resulting from manipulation of a computer system (including "electronic data") by any employee, including a temporary or leased employee, or by an entity retained by you, or for you, to inspect, design, install, modify, maintain, repair or replace that system.

- (3) The most we will pay under this Additional Coverage – Electronic Data for all loss or damage sustained in any one policy year, regardless of the number of occurrences of loss or damage or the number of premises, locations or computer systems involved, is \$10,000, unless a higher Limit Of Insurance is shown in the Declarations. If loss payment on the first occurrence does not exhaust this amount, then the balance is available for subsequent loss or damage sustained in, but not after, that policy year. With respect to an occurrence which begins in one policy year and continues or results in additional loss or damage in a subsequent policy year(s), all loss or damage is deemed to be sustained in the policy year in which the occurrence began.

- (4) This Additional Coverage does not apply to your "stock" of prepackaged software, or to "electronic data" which is integrated in and operates or controls a building's elevator, lighting, heating, ventilation, air conditioning or security system.

q. Interruption Of Computer Operations

- (1) Subject to all provisions of this Additional Coverage, you may extend the insurance that applies to Business Income and Extra Expense to apply to a suspension of "operations" caused by an interruption in computer operations due to destruction or corruption of "electronic data" due to a Covered Cause of Loss

- (2) With respect to the coverage provided under this Additional Coverage, the Covered Causes of Loss are subject to the following:
- (a) Coverage under this Additional Coverage – Interruption Of Computer Operations is limited to the "specified causes of loss" and Collapse.
 - (b) If the Businessowners Coverage Form is endorsed to add a Covered Cause of Loss, the additional Covered Cause of Loss does not apply to the coverage provided under this Additional Coverage.
 - (c) The Covered Causes of Loss include a computer virus, harmful code or similar instruction introduced into or enacted on a computer system (including "electronic data") or a network to which it is connected, designed to damage or destroy any part of the system or disrupt its normal operation. But there is no coverage for an interruption related to manipulation of a computer system (including "electronic data") by any employee, including a temporary or leased employee, or by an entity retained by you, or for you, to inspect, design, install, modify, maintain, repair or replace that system.
- (3) The most we will pay under this Additional Coverage – Interruption Of Computer Operations for all loss sustained and expense incurred in any one policy year, regardless of the number of interruptions or the number of premises, locations or computer systems involved, is \$10,000 unless a higher Limit Of Insurance is shown in the Declarations. If loss payment relating to the first interruption does not exhaust this amount, then the balance is available for loss or expense sustained or incurred as a result of subsequent interruptions in that policy year. A balance remaining at the end of a policy year does not increase the amount of insurance in the next policy year. With respect to any interruption which begins in one policy year and continues or results in additional loss or expense in a subsequent policy year(s), all loss and expense is deemed to be sustained or incurred in the policy year in which the interruption began.
- (4) This Additional Coverage – Interruption Of Computer Operations does not apply to loss sustained or expense incurred after the end of the "period of restoration", even if the amount of insurance stated in (3) above has not been exhausted.
- (5) Coverage for Business Income does not apply when a suspension of "operations" is caused by destruction or corruption of "electronic data", or any loss or damage to "electronic data", except as provided under Paragraphs (1) through (4) of this Additional Coverage.

(6) Coverage for Extra Expense does not apply when action is taken to avoid or minimize a suspension of "operations" caused by destruction or corruption of "electronic data", or any loss or damage to "electronic data", except as provided under Paragraphs (1) through (4) of this Additional Coverage.

(7) This Additional Coverage does not apply when loss or damage to "electronic data" involves only "electronic data" which is integrated in and operates or controls a building's elevator, lighting, heating, ventilation, air conditioning or security system.

r. Limited Coverage For "Fungi", Wet Rot Or Dry Rot

(1) The coverage described in Paragraphs r.(2) and r.(6) only applies when the "fungi", wet rot or dry rot is the result of a "specified cause of loss" other than fire or lightning that occurs during the policy period and only if all reasonable means were used to save and preserve the property from further damage at the time of and after that occurrence.

This Additional Coverage does not apply to lawns, trees, shrubs or plants which are part of a vegetated roof.

(2) We will pay for loss or damage by "fungi", wet rot or dry rot. As used in this Limited Coverage, the term loss or damage means:

(a) Direct physical loss or damage to Covered Property caused by "fungi", wet rot or dry rot, including the cost of removal of the "fungi", wet rot or dry rot;

(b) The cost to tear out and replace any part of the building or other property as needed to gain access to the "fungi", wet rot or dry rot; and

(c) The cost of testing performed after removal, repair, replacement or restoration of the damaged property is completed, provided there is a reason to believe that "fungi", wet rot or dry rot is present.

(3) The coverage described under this Limited Coverage is limited to \$15,000. Regardless of the number of claims, this limit is the most we will pay for the total of all loss or damage arising out of all occurrences of "specified causes of loss" (other than fire or lightning) which take place in a 12-month period (starting with the beginning of the present annual policy period). With respect to a particular occurrence of loss which results in "fungi", wet rot or dry rot, we will not pay more than the total of \$15,000 even if the "fungi", wet rot or dry rot continues to be present or active, or recurs, in a later policy period

(4) The coverage provided under this Limited Coverage does not increase the applicable Limit of Insurance on any Covered Property. If a particular occurrence results in loss or damage by "fungi", wet rot or dry rot, and other loss or damage, we will not pay more, for the total of all loss or damage, than the applicable Limit of Insurance on the affected Covered Property.

If there is covered loss or damage to Covered Property, not caused by "fungi", wet rot or dry rot, loss payment will not be limited by the terms of this Limited Coverage, except to the extent that "fungi", wet rot or dry rot causes an increase in the loss. Any such increase in the loss will be subject to the terms of this Limited Coverage.

(5) The terms of this Limited Coverage do not increase or reduce the coverage provided under the Water Damage, Other Liquids, Powder Or Molten Material Damage or Collapse Additional Coverages.

(6) The following applies only if Business Income and/or Extra Expense Coverage applies to the described premises and only if the suspension of "operations" satisfies all the terms and conditions of the applicable Business Income and/or Extra Expense Additional Coverage:

- (a) If the loss which resulted in "fungi", wet rot or dry rot does not in itself necessitate a suspension of "operations", but such suspension is necessary due to loss or damage to property caused by "fungi", wet rot or dry rot, then our payment under the Business Income and/or Extra Expense Additional Coverages is limited to the amount of loss and/or expense sustained in a period of not more than 30 days. The days need not be consecutive.
- (b) If a covered suspension of "operations" was caused by loss or damage other than "fungi", wet rot or dry rot, but remediation of "fungi", wet rot or dry rot prolongs the "period of restoration", we will pay for loss and/or expense sustained during the delay (regardless of when such a delay occurs during the "period of restoration"), but such coverage is limited to 30 days. The days need not be consecutive.

6. Coverage Extensions

In addition to the Limits of Insurance of Section I – Property, you may extend the insurance provided by this policy as provided below.

Except as otherwise provided, the following extensions apply to property located in or on the building described in the Declarations or in the open (or in a vehicle) within 100 feet of the described premises:

a. Newly Acquired Or Constructed Property

(1) Buildings

If this policy covers Buildings, you may extend that insurance to apply to:

- (a) Your new buildings while being built on the described premises; and
- (b) Buildings you acquire at premises other than the one described, intended for:
 - (i) Similar use as the building described in the Declarations; or
 - (ii) Use as a warehouse.

The most we will pay for loss or damage under this Extension is \$250,000 at each building.

(2) Business Personal Property

If this policy covers Business Personal Property, you may extend that insurance to apply to:

- (a) Business Personal Property, including such property that you newly acquire, at any location you acquire; or
- (b) Business Personal Property, including such property that you newly acquire, located at your newly constructed or acquired buildings at the location described in the Declarations.

This Extension does not apply to personal property that you temporarily acquire in the course of installing or performing work on such property or your wholesale activities.

The most we will pay for loss or damage under this Extension is \$100,000 at each building.

(3) Period Of Coverage

With respect to insurance provided under this Coverage Extension for Newly Acquired Or Constructed Property, coverage will end when any of the following first occurs:

- (a) This policy expires;
- (b) 30 days expire after you acquire the property or begin construction of that part of the building that would qualify as Covered Property; or
- (c) You report values to us.

We will charge you additional premium for values reported from the date you acquire the property or begin construction of that part of the building that would qualify as Covered Property.

b. Personal Property Off-premises

You may extend the insurance provided by this policy to apply to your Covered Property, other than "money" and "securities", "valuable papers and records" or accounts receivable, while it is in the course of transit or at a premises you do not own, lease or operate. The most we will pay for loss or damage under this Extension is \$10,000.

c. Outdoor Property

You may extend the insurance provided by this policy to apply to your outdoor fences, radio and television antennas (including satellite dishes), signs (other than signs attached to buildings), trees, shrubs and plants (other than trees, shrubs or plants which are part of a vegetated roof), including debris removal expense. Loss or damage must be caused by or result from any of the following causes of loss:

- (1) Fire;
- (2) Lightning;
- (3) Explosion;
- (4) Riot or Civil Commotion; or
- (5) Aircraft.

The most we will pay for loss or damage under this Extension is \$2,500, unless a higher Limit Of Insurance for Outdoor Property is shown in the Declarations, but not more than \$1,000 for any one tree, shrub or plant.

Subject to all aforementioned terms and limitations of coverage, this Coverage Extension includes the expense of removing from the described premises the debris of trees, shrubs and plants which are the property of others, except in the situation in which you are a tenant and such property is owned by the landlord of the described premises.

d. Personal Effects

You may extend the insurance that applies to Business Personal Property to apply to personal effects owned by you, your officers, your partners or "members", your "managers" or your employees, including temporary or leased employees. This extension does not apply to:

- (1) Tools or equipment used in your business; or
- (2) Loss or damage by theft.

The most we will pay for loss or damage under this Extension is \$2,500 at each described premises.

e. Valuable Papers And Records

- (1) You may extend the insurance that applies to Business Personal Property to apply to direct physical loss or damage to "valuable papers and records" that you own, or that are in your care, custody or control, caused by or resulting from a Covered Cause of Loss. This Coverage Extension includes the cost to research, replace or restore the lost information on "valuable papers and records" for which duplicates do not exist.
- (2) This Coverage Extension does not apply to:
 - (a) Property held as samples or for delivery after sale; and
 - (b) Property in storage away from the premises shown in the Declarations.
- (3) The most we will pay under this Coverage Extension for loss or damage to "valuable papers and records" in any one occurrence at the described premises is \$10,000, unless a higher Limit Of Insurance for "valuable papers and records" is shown in the Declarations.

For "valuable papers and records" not at the described premises, the most we will pay is \$5,000.

- (4) Loss or damage to "valuable papers and records" will be valued at the cost of restoration or replacement of the lost or damaged information. To the extent that the contents of the "valuable papers and records" are not restored, the "valuable papers and records" will be valued at the cost of replacement with blank materials of substantially identical type.
- (5) Paragraph B. Exclusions in Section I – Property does not apply to this Coverage Extension except for:
 - (a) Paragraph B.1.c., Governmental Action;
 - (b) Paragraph B.1.d., Nuclear Hazard;
 - (c) Paragraph B.1.f., War And Military Action;

- (d) Paragraph **B.2.f.**, Dishonesty;
- (e) Paragraph **B.2.g.**, False Pretense;
- (f) Paragraph **B.2.m.(2)**, Errors Or Omissions; and
- (g) Paragraph **B.3.**

f. Accounts Receivable

- (1) You may extend the insurance that applies to Business Personal Property to apply to accounts receivable. We will pay:

- (a) All amounts due from your customers that you are unable to collect;
- (b) Interest charges on any loan required to offset amounts you are unable to collect pending our payment of these amounts;
- (c) Collection expenses in excess of your normal collection expenses that are made necessary by loss or damage; and
- (d) Other reasonable expenses that you incur to reestablish your records of accounts receivable;

that result from direct physical loss or damage by any Covered Cause of Loss to your records of accounts receivable.

- (2) The most we will pay under this Coverage Extension for loss or damage in any one occurrence at the described premises is \$10,000, unless a higher Limit of Insurance for accounts receivable is shown in the Declarations.

For accounts receivable not at the described premises, the most we will pay is \$5,000.

- (3) Paragraph **B.** Exclusions in Section **I** – Property does not apply to this Coverage Extension except for:

- (a) Paragraph **B.1.c.**, Governmental Action;
- (b) Paragraph **B.1.d.**, Nuclear Hazard;
- (c) Paragraph **B.1.f.**, War And Military Action;
- (d) Paragraph **B.2.f.**, Dishonesty;
- (e) Paragraph **B.2.g.**, False Pretense;
- (f) Paragraph **B.3.**; and
- (g) Paragraph **B.6.**, Accounts Receivable Exclusion.

g. Business Personal Property Temporarily In Portable Storage Units

- (1) You may extend the insurance that applies to Business Personal Property to apply to such property while temporarily stored in a portable storage unit (including a detached trailer) located within 100 feet of the buildings or structures described in the Declarations or within 100 feet of the described premises, whichever distance is greater.

- (2) The limitation under Paragraph **A.4.a.(5)** also applies to property in a portable storage unit.

- (3) Coverage under this Extension:

- (a) Will end 90 days after the Business Personal Property has been placed in the storage unit;
- (b) Does not apply if the storage unit itself has been in use at the described premises for more than 90 consecutive days, even if the Business Personal Property has been stored there for 90 or fewer days as of the time of loss or damage.

- (4) Under this Extension, the most we will pay for the total of all loss or damage to Business Personal Property is \$10,000 (unless a higher limit is indicated in the Declarations for such Extension) regardless of the number of storage units.

- (5) This Extension does not apply to loss or damage otherwise covered under this Coverage Form or any endorsement to this Coverage Form, and does not apply to loss or damage to the storage unit itself.

B. Exclusions

1. We will not pay for loss or damage caused directly or indirectly by any of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss. These exclusions apply whether or not the loss event results in widespread damage or affects a substantial area.

a. Ordinance Or Law

- (1) The enforcement of or compliance with any ordinance or law:
- (a) Regulating the construction, use or repair of any property; or

(b) Requiring the tearing down of any property, including the cost of removing its debris.

(2) This exclusion, Ordinance Or Law, applies whether the loss results from:

(a) An ordinance or law that is enforced even if the property has not been damaged; or

(b) The increased costs incurred to comply with an ordinance or law in the course of construction, repair, renovation, remodeling or demolition of property or removal of its debris, following a physical loss to that property.

b. Earth Movement

(1) Earthquake, including tremors and aftershocks and any earth sinking, rising or shifting related to such event;

(2) Landslide, including any earth sinking, rising or shifting related to such event;

(3) Mine subsidence, meaning subsidence of a man-made mine, whether or not mining activity has ceased;

(4) Earth sinking (other than sinkhole collapse), rising or shifting including soil conditions which cause settling, cracking or other disarrangement of foundations or other parts of realty. Soil conditions include contraction, expansion, freezing, thawing, erosion, improperly compacted soil and the action of water under the ground surface.

But if Earth Movement, as described in Paragraphs (1) through (4) above, results in fire or explosion, we will pay for the loss or damage caused by that fire or explosion.

(5) Volcanic eruption, explosion or effusion. But if volcanic eruption, explosion or effusion results in fire, building glass breakage or volcanic action, we will pay for the loss or damage caused by that fire, building glass breakage or volcanic action.

Volcanic action means direct loss or damage resulting from the eruption of a volcano when the loss or damage is caused by:

(a) Airborne volcanic blast or airborne shock waves;

(b) Ash, dust or particulate matter; or

(c) Lava flow.

With respect to coverage for volcanic action as set forth in **5(a)**, **(5)(b)** and **5(c)**, all volcanic eruptions that occur within any 168-hour period will constitute a single occurrence.

Volcanic action does not include the cost to remove ash, dust or particulate matter that does not cause direct physical loss of or damage to Covered Property.

This exclusion applies regardless of whether any of the above, in Paragraphs (1) through (5), is caused by an act of nature or is otherwise caused.

c. Governmental Action

Seizure or destruction of property by order of governmental authority.

But we will pay for loss or damage caused by or resulting from acts of destruction ordered by governmental authority and taken at the time of a fire to prevent its spread, if the fire would be covered under this policy.

d. Nuclear Hazard

Nuclear reaction or radiation, or radioactive contamination, however caused.

But if nuclear reaction or radiation, or radioactive contamination, results in fire, we will pay for the loss or damage caused by that fire.

e. Utility Services

The failure of power, communication, water or other utility service supplied to the described premises, however caused, if the failure:

(1) Originates away from the described premises; or

(2) Originates at the described premises, but only if such failure involves equipment used to supply the utility service to the described premises from a source away from the described premises.

Failure of any utility service includes lack of sufficient capacity and reduction in supply.

Loss or damage caused by a surge of power is also excluded, if the surge would not have occurred but for an event causing a failure of power.

But if the failure or surge of power, or the failure of communication, water or other utility service, results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

Communication services include but are not limited to service relating to Internet access or access to any electronic, cellular or satellite network.

This exclusion does not apply to loss or damage to "computer(s)" and "electronic data".

f. War And Military Action

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

g. Water

- (1) Flood, surface water, waves (including tidal wave and tsunami), tides, tidal water, overflow of any body of water, or spray from any of these, all whether or not driven by wind (including storm surge);
- (2) Mudslide or mudflow;
- (3) Water that backs up or overflows or is otherwise discharged from a sewer, drain, sump, sump pump or related equipment;
- (4) Water under the ground surface pressing on, or flowing or seeping through:
 - (a) Foundations, walls, floors or paved surfaces;
 - (b) Basements, whether paved or not; or
 - (c) Doors, windows or other openings; or
- (5) Waterborne material carried or otherwise moved by any of the water referred to in Paragraph (1), (3) or (4), or material carried or otherwise moved by mudslide or mudflow.

This exclusion applies regardless of whether any of the above, in Paragraphs (1) through (5), is caused by an act of nature or is otherwise caused. An example of a situation to which this exclusion applies is the situation where a dam, levee, seawall or other boundary or containment system fails in whole or in part, for any reason, to contain the water.

But if any of the above, in Paragraphs (1) through (5), results in fire, explosion or sprinkler leakage, we will pay for the loss or damage caused by that fire, explosion or sprinkler leakage.

h. Certain Computer-related Losses

(1) The failure, malfunction or inadequacy of:

- (a) Any of the following, whether belonging to any insured or to others:
 - (i) "Computer" hardware, including microprocessors or other electronic data processing equipment as may be described elsewhere in this policy;
 - (ii) "Computer" application software or other "electronic data" as may be described elsewhere in this policy;
 - (iii) "Computer" operating systems and related software;
 - (iv) "Computer" networks;
 - (v) Microprocessors ("computer" chips) not part of any "computer" system; or
 - (vi) Any other computerized or electronic equipment or components; or
- (b) Any other products, and any services, data or functions that directly or indirectly use or rely upon, in any manner, any of the items listed in Paragraph (a) above;

due to the inability to correctly recognize, distinguish, interpret or accept one or more dates or times. An example is the inability of computer software to recognize the year 2000.

- (2) Any advice, consultation, design, evaluation, inspection, installation, maintenance, repair, replacement or supervision provided or done by you or for you to determine, rectify or test for, any potential or actual problems described in Paragraph (1) above.

However, if excluded loss or damage, as described in Paragraph (1) above, results in a "specified cause of loss" under Section I – Property, we will pay only for the loss or damage caused by such "specified cause of loss".

We will not pay for repair, replacement or modification of any items in Paragraph (1)(a) or (1)(b) to correct any deficiencies or change any features.

i. "Fungi", Wet Rot Or Dry Rot

Presence, growth, proliferation, spread or any activity of "fungi", wet rot or dry rot.

But if "fungi", wet rot or dry rot results in a "specified cause of loss", we will pay for the loss or damage caused by that "specified cause of loss".

This exclusion does not apply:

- (1) When "fungi", wet rot or dry rot results from fire or lightning; or
- (2) To the extent that coverage is provided in the Limited Coverage For "Fungi", Wet Rot Or Dry Rot Additional Coverage, with respect to loss or damage by a cause of loss other than fire or lightning.

j. Virus Or Bacteria

- (1) Any virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness or disease.
- (2) However, the exclusion in Paragraph (1) does not apply to loss or damage caused by or resulting from "fungi", wet rot or dry rot. Such loss or damage is addressed in Exclusion i.
- (3) With respect to any loss or damage subject to the exclusion in Paragraph (1), such exclusion supersedes any exclusion relating to "pollutants".

2. We will not pay for loss or damage caused by or resulting from any of the following:

a. Electrical Apparatus

Artificially generated electrical, magnetic or electromagnetic energy that damages, disturbs, disrupts or otherwise interferes with any:

- (1) Electrical or electronic wire, device, appliance, system or network; or
- (2) Device, appliance, system or network utilizing cellular or satellite technology.

For the purpose of this exclusion, electrical, magnetic or electromagnetic energy includes but is not limited to:

- (1) Electrical current, including arcing;
- (2) Electrical charge produced or conducted by a magnetic or electromagnetic field;
- (3) Pulse of electromagnetic energy; or
- (4) Electromagnetic waves or microwaves.

But if fire results, we will pay for the loss or damage caused by fire.

We will pay for loss or damage to "computer(s)" due to artificially generated electrical, magnetic or electromagnetic energy if such loss or damage is caused by or results from:

- (1) An occurrence that took place within 100 feet of the described premises; or
- (2) Interruption of electric power supply, power surge, blackout or brownout if the cause of such occurrence took place within 100 feet of the described premises.

b. Consequential Losses

Delay, loss of use or loss of market.

c. Smoke, Vapor, Gas

Smoke, vapor or gas from agricultural smudging or industrial operations.

d. Steam Apparatus

Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control. But if explosion of steam boilers, steam pipes, steam engines or steam turbines results in fire or combustion explosion, we will pay for the loss or damage caused by that fire or combustion explosion. We will also pay for loss or damage caused by or resulting from the explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.

e. Frozen Plumbing

Water, other liquids, powder or molten material that leaks or flows from plumbing, heating, air conditioning or other equipment (except fire protective systems) caused by or resulting from freezing, unless:

- (1) You do your best to maintain heat in the building or structure; or
- (2) You drain the equipment and shut off the supply if the heat is not maintained.

f. Dishonesty

Dishonest or criminal acts (including theft) by you, anyone else with an interest in the property, or any of your or their partners, "members", officers, "managers", employees (including temporary or leased employees), directors, trustees or authorized representatives, whether acting alone or in collusion with each other or with any other party; or theft by any person to whom you entrust the property for any purpose, whether acting alone or in collusion with any other party.

This exclusion:

- (1) Applies whether or not an act occurs during your normal hours of operation;
- (2) Does not apply to acts of destruction by your employees (including temporary or leased employees) or authorized representatives; but theft by your employees (including temporary or leased employees) or authorized representatives is not covered.

With respect to accounts receivable and "valuable papers and records", this exclusion does not apply to carriers for hire.

This exclusion does not apply to coverage that is provided under the Employee Dishonesty Optional Coverage.

g. False Pretense

Voluntary parting with any property by you or anyone else to whom you have entrusted the property if induced to do so by any fraudulent scheme, trick, device or false pretense.

h. Exposed Property

Rain, snow, ice or sleet to personal property in the open.

i. Collapse

(1) Collapse, including any of the following conditions of property or any part of the property:

- (a) An abrupt falling down or caving in;
- (b) Loss of structural integrity, including separation of parts of the property or property in danger of falling down or caving in; or
- (c) Any cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion as such condition relates to Paragraph **i.(1)(a)** or **i.(1)(b)**.

But if collapse results in a Covered Cause of Loss at the described premises, we will pay for the loss or damage caused by that Covered Cause of Loss.

(2) This Exclusion **i.** does not apply:

- (a) To the extent that coverage is provided under the Additional Coverage – Collapse; or
- (b) To collapse caused by one or more of the following:
 - (i) The "specified causes of loss";
 - (ii) Breakage of building glass;
 - (iii) Weight of rain that collects on a roof; or
 - (iv) Weight of people or personal property.

j. Pollution

We will not pay for loss or damage caused by or resulting from the discharge, dispersal, seepage, migration, release or escape of "pollutants" unless the discharge, dispersal, seepage, migration, release or escape is itself caused by any of the "specified causes of loss". But if the discharge, dispersal, seepage, migration, release or escape of "pollutants" results in a "specified cause of loss", we will pay for the loss or damage caused by that "specified cause of loss".

k. Neglect

Neglect of an insured to use all reasonable means to save and preserve property from further damage at and after the time of loss.

l. Other Types Of Loss

- (1) Wear and tear;
- (2) Rust or other corrosion, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;
- (3) Smog;
- (4) Settling, cracking, shrinking or expansion;
- (5) Nesting or infestation, or discharge or release of waste products or secretions, by insects, birds, rodents or other animals;
- (6) Mechanical breakdown, including rupture or bursting caused by centrifugal force.

This exclusion does not apply with respect to the breakdown of "computer(s)";
- (7) The following causes of loss to personal property:
 - (a) Dampness or dryness of atmosphere;
 - (b) Changes in or extremes of temperature; or
 - (c) Marring or scratching.

But if an excluded cause of loss that is listed in Paragraphs (1) through (7) above results in a "specified cause of loss" or building glass breakage, we will pay for the loss or damage caused by that "specified cause of loss" or building glass breakage.

m. Errors Or Omissions

Errors or omissions in:

- (1) Programming, processing or storing data, as described under "electronic data" or in any "computer" operations; or
- (2) Processing or copying "valuable papers and records".

However, we will pay for direct physical loss or damage caused by resulting fire or explosion if these causes of loss would be covered by this Coverage Form.

n. Installation, Testing, Repair

Errors or deficiency in design, installation, testing, maintenance, modification or repair of your "computer" system including "electronic data".

However, we will pay for direct physical loss or damage caused by resulting fire or explosion if these causes of loss would be covered by this Coverage Form.

o. Electrical Disturbance

Electrical or magnetic injury, disturbance or erasure of "electronic data", except as provided for under the Additional Coverages of Section I – Property.

However, we will pay for direct loss or damage caused by lightning.

p. Continuous Or Repeated Seepage Or Leakage Of Water

Continuous or repeated seepage or leakage of water, or the presence or condensation of humidity, moisture or vapor, that occurs over a period of 14 days or more.

3. We will not pay for loss or damage caused by or resulting from any of the following Paragraphs **a.** through **c.** But if an excluded cause of loss that is listed in Paragraphs **a.** through **c.** results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

a. Weather Conditions

Weather conditions. But this exclusion only applies if weather conditions contribute in any way with a cause or event excluded in Paragraph **B.1.** above to produce the loss or damage.

b. Acts Or Decisions

Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.

c. Negligent Work

Faulty, inadequate or defective:

- (1) Planning, zoning, development, surveying, siting;
- (2) Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;
- (3) Materials used in repair, construction, renovation or remodeling; or
- (4) Maintenance;

of part or all of any property on or off the described premises.

4. Additional Exclusion

The following applies only to the property specified in this Additional Exclusion:

Loss Or Damage To Products

We will not pay for loss or damage to any merchandise, goods or other product caused by or resulting from error or omission by any person or entity (including those having possession under an arrangement where work or a portion of the work is outsourced) in any stage of the development, production or use of the product, including planning, testing, processing, packaging, installation, maintenance or repair. This exclusion applies to any effect that compromises the form, substance or quality of the product. But if such error or omission results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

5. Business Income And Extra Expense Exclusions

a. We will not pay for:

(1) Any Extra Expense, or increase of Business Income loss, caused by or resulting from:

(a) Delay in rebuilding, repairing or replacing the property or resuming "operations", due to interference at the location of the rebuilding, repair or replacement by strikers or other persons; or

(b) Suspension, lapse or cancellation of any license, lease or contract. But if the suspension, lapse or cancellation is directly caused by the suspension of "operations", we will cover such loss that affects your Business Income during the "period of restoration" and any extension of the "period of restoration" in accordance with the terms of the Extended Business Income Additional Coverage.

(2) Any other consequential loss.

b. With respect to this exclusion, suspension means:

(1) The partial slowdown or complete cessation of your business activities; and

(2) That a part or all of the described premises is rendered untenable, if coverage for Business Income applies.

6. Accounts Receivable Exclusion

The following additional exclusion applies to the Accounts Receivable Coverage Extension:

We will not pay for:

a. Loss or damage caused by or resulting from alteration, falsification, concealment or destruction of records of accounts receivable done to conceal the wrongful giving, taking or withholding of "money", "securities" or other property.

This exclusion applies only to the extent of the wrongful giving, taking or withholding.

b. Loss or damage caused by or resulting from bookkeeping, accounting or billing errors or omissions.

c. Any loss or damage that requires any audit of records or any inventory computation to prove its factual existence.

C. Limits Of Insurance

1. The most we will pay for loss or damage in any one occurrence is the applicable Limits Of Insurance of Section I – Property shown in the Declarations.

2. The most we will pay for loss of or damage to outdoor signs attached to buildings is \$1,000 per sign in any one occurrence.

3. The amounts of insurance applicable to the Coverage Extensions and the following Additional Coverages apply in accordance with the terms of such coverages and are in addition to the Limits of Insurance of Section I - Property:

a. Fire Department Service Charge;

b. Pollutant Clean-up And Removal;

c. Increased Cost Of Construction;

d. Business Income From Dependent Properties;

e. Electronic Data; and

f. Interruption Of Computer Operations.

4. Building Limit – Automatic Increase

a. In accordance with Paragraph C.4.b., the Limit of Insurance for Buildings will automatically increase by 8%, unless a different percentage of annual increase is shown in the Declarations.

b. The amount of increase is calculated as follows:

(1) Multiply the Building limit that applied on the most recent of the policy inception date, the policy anniversary date or any other policy change amending the Building limit by:

(a) The percentage of annual increase shown in the Declarations, expressed as a decimal (example: 7% is .07); or

(b) .08, if no percentage of annual increase is shown in the Declarations; and

(2) Multiply the number calculated in accordance with **b.(1)** by the number of days since the beginning of the current policy year, or the effective date of the most recent policy change amending the Building limit, divided by 365.

Example

If:

The applicable Building limit is \$100,000. The annual percentage increase is 8%. The number of days since the beginning of the policy year (or last policy change) is 146.

The amount of increase is

$$\$100,000 \times .08 \times 146 \div 365 = \$3,200.$$

5. Business Personal Property Limit – Seasonal Increase

a. Subject to Paragraph **5.b.**, the Limit of Insurance for Business Personal Property is automatically increased by:

(1) The Business Personal Property – Seasonal Increase percentage shown in the Declarations; or

(2) 25% if no Business Personal Property – Seasonal Increase percentage is shown in the Declarations;

to provide for seasonal variances.

b. The increase described in Paragraph **5.a.** will apply only if the Limit Of Insurance shown for Business Personal Property in the Declarations is at least 100% of your average monthly values during the lesser of:

(1) The 12 months immediately preceding the date the loss or damage occurs; or

(2) The period of time you have been in business as of the date the loss or damage occurs.

D. Deductibles

1. We will not pay for loss or damage in any one occurrence until the amount of loss or damage exceeds the Deductible shown in the Declarations. We will then pay the amount of loss or damage in excess of the Deductible up to the applicable Limit of Insurance of Section **I** - Property.

2. Regardless of the amount of the Deductible, the most we will deduct from any loss or damage under all of the following Optional Coverages in any one occurrence is the Optional Coverage Deductible shown in the Declarations:

a. Money and Securities;

b. Employee Dishonesty;

c. Outdoor Signs; and

d. Forgery or Alteration.

But this Optional Coverage Deductible will not increase the Deductible shown in the Declarations. This Deductible will be used to satisfy the requirements of the Deductible in the Declarations.

3. No deductible applies to the following Additional Coverages:

a. Fire Department Service Charge;

b. Business Income;

c. Extra Expense;

d. Civil Authority; and

e. Fire Extinguisher Systems Recharge Expense.

E. Property Loss Conditions

1. Abandonment

There can be no abandonment of any property to us.

2. Appraisal

If we and you disagree on the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

a. Pay its chosen appraiser; and

b. Bear the other expenses of the appraisal and umpire equally.

If there is an appraisal, we will still retain our right to deny the claim.

3. Duties In The Event Of Loss Or Damage

a. You must see that the following are done in the event of loss or damage to Covered Property:

- (1) Notify the police if a law may have been broken.
- (2) Give us prompt notice of the loss or damage. Include a description of the property involved.
- (3) As soon as possible, give us a description of how, when and where the loss or damage occurred.
- (4) Take all reasonable steps to protect the Covered Property from further damage, and keep a record of your expenses necessary to protect the Covered Property, for consideration in the settlement of the claim. This will not increase the Limits of Insurance of Section I – Property. However, we will not pay for any subsequent loss or damage resulting from a cause of loss that is not a Covered Cause of Loss. Also, if feasible, set the damaged property aside and in the best possible order for examination.
- (5) At our request, give us complete inventories of the damaged and undamaged property. Include quantities, costs, values and amount of loss claimed.
- (6) As often as may be reasonably required, permit us to inspect the property proving the loss or damage and examine your books and records.

Also permit us to take samples of damaged and undamaged property for inspection, testing and analysis, and permit us to make copies from your books and records.
- (7) Send us a signed, sworn proof of loss containing the information we request to investigate the claim. You must do this within 60 days after our request. We will supply you with the necessary forms.
- (8) Cooperate with us in the investigation or settlement of the claim.
- (9) Resume all or part of your "operations" as quickly as possible.

- b. We may examine any insured under oath, while not in the presence of any other insured and at such times as may be reasonably required, about any matter relating to this insurance or the claim, including an insured's books and records. In the event of an examination, an insured's answers must be signed.

4. Legal Action Against Us

No one may bring a legal action against us under this insurance unless:

- a. There has been full compliance with all of the terms of this insurance; and
- b. The action is brought within two years after the date on which the direct physical loss or damage occurred.

5. Loss Payment

In the event of loss or damage covered by this policy:

- a. At our option, we will either:
 - (1) Pay the value of lost or damaged property;
 - (2) Pay the cost of repairing or replacing the lost or damaged property;
 - (3) Take all or any part of the property at an agreed or appraised value; or
 - (4) Repair, rebuild or replace the property with other property of like kind and quality, subject to Paragraph **d.(1)(e)** below.
- b. We will give notice of our intentions within 30 days after we receive the sworn proof of loss.
- c. We will not pay you more than your financial interest in the Covered Property.
- d. Except as provided in Paragraphs (2) through (7) below, we will determine the value of Covered Property as follows:
 - (1) At replacement cost without deduction for depreciation, subject to the following:
 - (a) If, at the time of loss, the Limit of Insurance on the lost or damaged property is 80% or more of the full replacement cost of the property immediately before the loss, we will pay the cost to repair or replace, after application of the deductible and without deduction for depreciation, but not more than the least of the following amounts:
 - (i) The Limit of Insurance under Section I – Property that applies to the lost or damaged property;

(ii) The cost to replace, on the same premises, the lost or damaged property with other property:

- i. Of comparable material and quality; and
- ii. Used for the same purpose; or

(iii) The amount that you actually spend that is necessary to repair or replace the lost or damaged property.

If a building is rebuilt at a new premises, the cost is limited to the cost which would have been incurred had the building been built at the original premises.

(b) If, at the time of loss, the Limit of Insurance applicable to the lost or damaged property is less than 80% of the full replacement cost of the property immediately before the loss, we will pay the greater of the following amounts, but not more than the Limit of Insurance that applies to the property:

- (i) The actual cash value of the lost or damaged property; or
- (ii) A proportion of the cost to repair or replace the lost or damaged property, after application of the deductible and without deduction for depreciation. This proportion will equal the ratio of the applicable Limit of Insurance to 80% of the full replacement cost of the property.

Example

The full replacement cost of property which suffers a total loss is \$100,000. The property is insured for \$70,000. 80% of the full replacement cost of the property immediately before the loss is \$80,000 (\$100,000 x .80 = \$80,000). A partial loss of \$25,000 is sustained. The amount of recovery is determined as follows:

Amount of recovery

$$\$70,000 \div \$80,000 = .875$$

$$.875 \times \$25,000 = \$21,875$$

(c) You may make a claim for loss or damage covered by this insurance on an actual cash value basis instead of on a replacement cost basis. In the event you elect to have loss or damage settled on an actual cash value basis, you may still make a claim on a replacement cost basis if you notify us of your intent to do so within 180 days after the loss or damage.

(d) We will not pay on a replacement cost basis for any loss or damage:

- (i) Until the lost or damaged property is actually repaired or replaced; and
- (ii) Unless the repair or replacement is made as soon as reasonably possible after the loss or damage.

However, if the cost to repair or replace the damaged building property is \$2,500 or less, we will settle the loss according to the provisions of Paragraphs **d.(1)(a)** and **d.(1)(b)** above whether or not the actual repair or replacement is complete.

(e) The cost to repair, rebuild or replace does not include the increased cost attributable to enforcement of or compliance with any ordinance or law regulating the construction, use or repair of any property.

(2) If the Actual Cash Value – Buildings option applies, as shown in the Declarations, Paragraph **(1)** above does not apply to Buildings. Instead, we will determine the value of Buildings at actual cash value.

(3) The following property at actual cash value:

- (a) Used or secondhand merchandise held in storage or for sale;
- (b) Property of others. However, if an item(s) of personal property of others is subject to a written contract which governs your liability for loss or damage to that item(s), then valuation of that item(s) will be based on the amount for which you are liable under such contract, but not to exceed the lesser of the replacement cost of the property or the applicable Limit of Insurance;

- (c) Household contents, except personal property in apartments or rooms furnished by you as landlord;
 - (d) Manuscripts; and
 - (e) Works of art, antiques or rare articles, including etchings, pictures, statuary, marble, bronzes, porcelain and bric-a-brac.
- (4) Glass at the cost of replacement with safety glazing material if required by law.
- (5) Tenants' improvements and betterments at:
- (a) Replacement cost if you make repairs promptly.
 - (b) A proportion of your original cost if you do not make repairs promptly. We will determine the proportionate value as follows:
 - (i) Multiply the original cost by the number of days from the loss or damage to the expiration of the lease; and
 - (ii) Divide the amount determined in (1) above by the number of days from the installation of improvements to the expiration of the lease.

If your lease contains a renewal option, the expiration of the renewal option period will replace the expiration of the lease in this procedure.
 - (c) Nothing if others pay for repairs or replacement.
- (6) Applicable only to the Optional Coverages:
- (a) "Money" at its face value; and
 - (b) "Securities" at their value at the close of business on the day the loss is discovered.
- (7) Applicable only to accounts receivable:
- (a) If you cannot accurately establish the amount of accounts receivable outstanding as of the time of loss or damage:
 - (i) We will determine the total of the average monthly amounts of accounts receivable for the 12 months immediately preceding the month in which the loss or damage occurs; and
 - (ii) We will adjust that total for any normal fluctuations in the amount of accounts receivable for the month in which the loss or damage occurred or for any demonstrated variance from the average for that month.
 - (b) The following will be deducted from the total amount of accounts receivable, however that amount is established:
 - (i) The amount of the accounts for which there is no loss or damage;
 - (ii) The amount of the accounts that you are able to reestablish or collect;
 - (iii) An amount to allow for probable bad debts that you are normally unable to collect; and
 - (iv) All unearned interest and service charges.
- e. Our payment for loss of or damage to personal property of others will only be for the account of the owners of the property. We may adjust losses with the owners of lost or damaged property if other than you. If we pay the owners, such payments will satisfy your claims against us for the owners' property. We will not pay the owners more than their financial interest in the Covered Property.
- f. We may elect to defend you against suits arising from claims of owners of property. We will do this at our expense.
- g. We will pay for covered loss or damage within 30 days after we receive the sworn proof of loss, provided you have complied with all of the terms of this policy, and:
- (1) We have reached agreement with you on the amount of loss; or
 - (2) An appraisal award has been made.

- h. A party wall is a wall that separates and is common to adjoining buildings that are owned by different parties. In settling covered losses involving a party wall, we will pay a proportion of the loss to the party wall based on your interest in the wall in proportion to the interest of the owner of the adjoining building. However, if you elect to repair or replace your building and the owner of the adjoining building elects not to repair or replace that building, we will pay you the full value of the loss to the party wall, subject to all applicable policy provisions including Limits of Insurance and all other provisions of this Loss Payment Condition. Our payment under the provisions of this paragraph does not alter any right of subrogation we may have against any entity, including the owner or insurer of the adjoining building, and does not alter the terms of the Transfer Of Rights Of Recovery Against Others To Us Condition in this policy.

6. Recovered Property

If either you or we recover any property after loss settlement, that party must give the other prompt notice. At your option, you may retain the property. But then you must return to us the amount we paid to you for the property. We will pay recovery expenses and the expenses to repair the recovered property, subject to the Limits of Insurance of Section I – Property.

7. Resumption Of Operations

We will reduce the amount of your:

- a. Business Income loss, other than Extra Expense, to the extent you can resume your "operations", in whole or in part, by using damaged or undamaged property (including merchandise or stock) at the described premises or elsewhere.
- b. Extra Expense loss to the extent you can return "operations" to normal and discontinue such Extra Expense.

8. Vacancy

a. Description Of Terms

- (1) As used in this Vacancy Condition, the term building and the term vacant have the meanings set forth in Paragraphs (a) and (b) below:
 - (a) When this policy is issued to a tenant, and with respect to that tenant's interest in Covered Property, building means the unit or suite rented or leased to the tenant. Such building is vacant when it does not contain enough business personal property to conduct customary operations.
 - (b) When this policy is issued to the owner or general lessee of a building, building means the entire building. Such building is vacant unless at least 31% of its total square footage is:
 - (i) Rented to a lessee or sublessee and used by the lessee or sublessee to conduct its customary operations; and/or
 - (ii) Used by the building owner to conduct customary operations.
- (2) Buildings under construction or renovation are not considered vacant.

b. Vacancy Provisions

If the building where loss or damage occurs has been vacant for more than 60 consecutive days before that loss or damage occurs:

- (1) We will not pay for any loss or damage caused by any of the following even if they are Covered Causes of Loss:
 - (a) Vandalism;
 - (b) Sprinkler leakage, unless you have protected the system against freezing;

- (c) Building glass breakage;
 - (d) Water damage;
 - (e) Theft; or
 - (f) Attempted theft.
- (2) With respect to Covered Causes of Loss other than those listed in Paragraphs (1)(a) through (1)(f) above, we will reduce the amount we would otherwise pay for the loss or damage by 15%.

F. Property General Conditions

1. Control Of Property

Any act or neglect of any person other than you beyond your direction or control will not affect this insurance.

The breach of any condition of this Coverage Form at any one or more locations will not affect coverage at any location where, at the time of loss or damage, the breach of condition does not exist.

2. Mortgageholders

- a. The term "mortgageholder" includes trustee.
- b. We will pay for covered loss of or damage to buildings or structures to each mortgageholder shown in the Declarations in their order of precedence, as interests may appear.
- c. The mortgageholder has the right to receive loss payment even if the mortgageholder has started foreclosure or similar action on the building or structure.
- d. If we deny your claim because of your acts or because you have failed to comply with the terms of this policy, the mortgageholder will still have the right to receive loss payment if the mortgageholder:
 - (1) Pays any premium due under this policy at our request if you have failed to do so;
 - (2) Submits a signed, sworn proof of loss within 60 days after receiving notice from us of your failure to do so; and
 - (3) Has notified us of any change in ownership, occupancy or substantial change in risk known to the mortgageholder.

All of the terms of this policy will then apply directly to the mortgageholder.

- e. If we pay the mortgageholder for any loss or damage and deny payment to you because of your acts or because you have failed to comply with the terms of this policy:

- (1) The mortgageholder's rights under the mortgage will be transferred to us to the extent of the amount we pay; and
- (2) The mortgageholder's right to recover the full amount of the mortgageholder's claim will not be impaired.

At our option, we may pay to the mortgageholder the whole principal on the mortgage plus any accrued interest. In this event, your mortgage and note will be transferred to us and you will pay your remaining mortgage debt to us.

- f. If we cancel this policy, we will give written notice to the mortgageholder at least:
 - (1) 10 days before the effective date of cancellation if we cancel for your nonpayment of premium; or
 - (2) 30 days before the effective date of cancellation if we cancel for any other reason.
- g. If we elect not to renew this policy, we will give written notice to the mortgageholder at least 10 days before the expiration date of this policy.

3. No Benefit To Bailee

No person or organization, other than you, having custody of Covered Property will benefit from this insurance.

4. Policy Period, Coverage Territory

Under Section I – Property:

- a. We cover loss or damage commencing:
 - (1) During the policy period shown in the Declarations; and
 - (2) Within the coverage territory or, with respect to property in transit, while it is between points in the coverage territory.
- b. The coverage territory is:
 - (1) The United States of America (including its territories and possessions);
 - (2) Puerto Rico; and
 - (3) Canada.

G. Optional Coverages

If shown as applicable in the Declarations, the following Optional Coverages also apply. These coverages are subject to the terms and conditions applicable to property coverage in this policy, except as provided below:

1. Outdoor Signs

- a. We will pay for direct physical loss of or damage to all outdoor signs at the described premises:
 - (1) Owned by you; or
 - (2) Owned by others but in your care, custody or control.
- b. Paragraph **A.3.**, Covered Causes Of Loss and Paragraph **B.**, Exclusions in Section **I – Property** do not apply to this Optional Coverage, except for:
 - (1) Paragraph **B.1.c.**, Governmental Action;
 - (2) Paragraph **B.1.d.**, Nuclear Hazard; and
 - (3) Paragraph **B.1.f.**, War And Military Action.
- c. We will not pay for loss or damage caused by or resulting from:
 - (1) Wear and tear;
 - (2) Hidden or latent defect;
 - (3) Rust;
 - (4) Corrosion; or
 - (5) Mechanical breakdown.
- d. The most we will pay for loss or damage in any one occurrence is the Limit Of Insurance for Outdoor Signs shown in the Declarations.
- e. The provisions of this Optional Coverage supersede all other references to outdoor signs in this policy.

2. Money And Securities

- a. We will pay for loss of "money" and "securities" used in your business while at a bank or savings institution, within your living quarters or the living quarters of your partners or any employee (including a temporary or leased employee) having use and custody of the property, at the described premises, or in transit between any of these places, resulting directly from:
 - (1) Theft, meaning any act of stealing;
 - (2) Disappearance; or
 - (3) Destruction.

- b. In addition to the Limitations and Exclusions applicable to Section **I – Property**, we will not pay for loss:

- (1) Resulting from accounting or arithmetical errors or omissions;
- (2) Due to the giving or surrendering of property in any exchange or purchase; or
- (3) Of property contained in any "money"-operated device unless the amount of "money" deposited in it is recorded by a continuous recording instrument in the device.

- c. The most we will pay for loss in any one occurrence is:

- (1) The limit shown in the Declarations for Inside the Premises for "money" and "securities" while:
 - (a) In or on the described premises; or
 - (b) Within a bank or savings institution; and
- (2) The limit shown in the Declarations for Outside the Premises for "money" and "securities" while anywhere else.

- d. All loss:

- (1) Caused by one or more persons; or
 - (2) Involving a single act or series of related acts;
- is considered one occurrence.

- e. You must keep records of all "money" and "securities" so we can verify the amount of any loss or damage.

3. Employee Dishonesty

- a. We will pay for direct loss of or damage to Business Personal Property and "money" and "securities" resulting from dishonest acts committed by any of your employees acting alone or in collusion with other persons (except you or your partner) with the manifest intent to:
 - (1) Cause you to sustain loss or damage; and also
 - (2) Obtain financial benefit (other than salaries, commissions, fees, bonuses, promotions, awards, profit sharing, pensions or other employee benefits earned in the normal course of employment) for:
 - (a) Any employee; or
 - (b) Any other person or organization.

- b.** We will not pay for loss or damage:
- (1)** Resulting from any dishonest or criminal act that you or any of your partners or "members" commit whether acting alone or in collusion with other persons.
 - (2)** Resulting from any dishonest act committed by any of your employees (except as provided in Paragraph **a.**), "managers" or directors:
 - (a)** Whether acting alone or in collusion with other persons; or
 - (b)** While performing services for you or otherwise.
 - (3)** The only proof of which as to its existence or amount is:
 - (a)** An inventory computation; or
 - (a)** A profit and loss computation.
 - (4)** Caused by an employee if the employee had also committed theft or any other dishonest act prior to the effective date of this policy and you or any of your partners, "members", "managers", officers, directors or trustees, not in collusion with the employee, learned of that theft or dishonest act prior to the policy period shown in the Declarations.
- c.** The most we will pay for loss or damage in any one occurrence is the Limit Of Insurance for Employee Dishonesty shown in the Declarations.
- d.** All loss or damage:
- (1)** Caused by one or more persons; or
 - (2)** Involving a single act or series of acts; is considered one occurrence.
- e.** If any loss is covered:
- (1)** Partly by this insurance; and
 - (2)** Partly by any prior cancelled or terminated insurance that we or any affiliate had issued to you or any predecessor in interest;
- the most we will pay is the larger of the amount recoverable under this insurance or the prior insurance.
- We will pay only for loss or damage you sustain through acts committed or events occurring during the policy period. Regardless of the number of years this policy remains in force or the number of premiums paid, no Limit of Insurance cumulates from year to year or period to period.
- f.** This Optional Coverage is cancelled as to any employee immediately upon discovery by:
- (1)** You; or
 - (2)** Any of your partners, "members", "managers", officers or directors not in collusion with the employee;
- of any dishonest act committed by that employee before or after being hired by you.
- g.** We will pay only for covered loss or damage sustained during the policy period and discovered no later than one year from the end of the policy period.
- h.** If you (or any predecessor in interest) sustained loss or damage during the policy period of any prior insurance that you could have recovered under that insurance except that the time within which to discover loss or damage had expired, we will pay for it under this Optional Coverage, provided:
- (1)** This Optional Coverage became effective at the time of cancellation or termination of the prior insurance; and
 - (2)** The loss or damage would have been covered by this Optional Coverage had it been in effect when the acts or events causing the loss or damage were committed or occurred.
- i.** The insurance under Paragraph **h.** above is part of, not in addition to, the Limit of Insurance applying to this Optional Coverage and is limited to the lesser of the amount recoverable under:
- (1)** This Optional Coverage as of its effective date; or
 - (2)** The prior insurance had it remained in effect.
- j.** With respect to the Employee Dishonesty Optional Coverage in Paragraph **G.3.**, employee means:
- (1)** Any natural person:
 - (a)** While in your service or for 30 days after termination of service;
 - (b)** Who you compensate directly by salary, wages or commissions; and
 - (c)** Who you have the right to direct and control while performing services for you;

(2) Any natural person who is furnished temporarily to you:

(a) To substitute for a permanent employee, as defined in Paragraph (1) above, who is on leave; or

(b) To meet seasonal or short-term workload conditions;

(3) Any natural person who is leased to you under a written agreement between you and a labor leasing firm, to perform duties related to the conduct of your business, but does not mean a temporary employee as defined in Paragraph (2) above;

(4) Any natural person who is a former employee, director, partner, member, manager, representative or trustee retained as a consultant while performing services for you; or

(5) Any natural person who is a guest student or intern pursuing studies or duties, excluding, however, any such person while having care and custody of property outside any building you occupy in conducting your business.

But employee does not mean:

(1) Any agent, broker, factor, commission merchant, consignee, independent contractor or representative of the same general character; or

(2) Any "manager", director or trustee except while performing acts coming within the usual duties of an employee.

4. Equipment Breakdown Protection Coverage

a. We will pay for direct loss of or damage to Covered Property caused by or resulting from a mechanical breakdown or electrical failure to pressure, mechanical or electrical machinery and equipment.

Mechanical breakdown or electrical failure to pressure, mechanical or electrical machinery and equipment does not mean any:

(1) Malfunction including but not limited to adjustment, alignment, calibration, cleaning or modification;

(2) Leakage at any valve, fitting, shaft seal, gland packing, joint or connection;

(3) Damage to any vacuum tube, gas tube, or brush; or

(4) The functioning of any safety or protective device.

b. Paragraphs **A.4.a.(1)** and **A.4.a.(2)**, Limitations, do not apply to this Optional Coverage.

c. With respect to the coverage provided by this Optional Coverage, the following exclusions in Paragraph **B. Exclusions** do not apply:

(1) Paragraph **B.2.a.**, Electrical Apparatus;

(2) Paragraph **B.2.d.**, Steam Apparatus; and

(3) Paragraph **B.2.I.(6)**, Mechanical Breakdown.

d. With respect to the coverage provided by this Optional Coverage, Paragraph **G.1.c.(5)** of the **Outdoor Signs Optional Coverage** does not apply.

e. If a dollar deductible is shown in the Declarations for this Optional Coverage, we will first subtract the applicable deductible amount from any loss we would otherwise pay. We will then pay the amount of loss in excess of the applicable deductible up to the applicable limit for this coverage.

If no optional deductible is chosen for this Optional Coverage, the Property Deductible shown in the Declarations applies.

f. With respect to Additional Coverages **5.f.** Business Income and **5.g.** Extra Expense, if the 72-hour time period in the definition of "period of restoration" (hereinafter referred to as time deductible) is amended for this Optional Coverage as shown in the Declarations, we will not pay for any Business Income loss that occurs during the consecutive number of hours shown as the time deductible in the Declarations immediately following a mechanical breakdown or electrical failure. If a time deductible is shown in days, each day shall mean 24 consecutive hours.

With respect to the coverage provided by this Optional Coverage, any time deductible shown in the Declarations for Equipment Breakdown Protection Coverage supersedes any time deductible otherwise applicable to the Business Income coverage provided by this policy.

g. With respect to the coverage provided by this Optional Coverage, Paragraph **H. Property Definitions** is amended as follows:

1. "Computer" means:

a. Programmable electronic equipment that is used to store, retrieve and process data; and

- b. Associated peripheral equipment that provides communication, including input and output functions such as printing and auxiliary functions such as data transmission.

"Computer" includes those used to operate production-type machinery or equipment.

- h. Whenever any covered pressure, mechanical or electrical machinery and equipment is found to be in, or exposed to, a dangerous condition, any of our representatives may suspend coverage provided by this Optional Coverage for loss from a mechanical breakdown or electrical failure to that pressure, mechanical or electrical machinery and equipment.

However, coverage provided by this Optional Coverage may be reinstated for loss from a mechanical breakdown or electrical failure to that pressure, mechanical or electrical machinery and equipment if the reasons for the suspension are found by any of our representatives to no longer exist.

We may suspend or reinstate this Optional coverage by mailing or delivering a written notification regarding the suspension or reinstatement to:

- (1) Your last known address; or
- (2) The address where the pressure, mechanical or electrical machinery and equipment is located.

This notification will indicate the effective date of the suspension or reinstatement.

If the coverage provided by this Optional Coverage is not reinstated, you will get a pro rata refund of premium. But the suspension will be effective even if we have not yet made or offered a refund.

H. Property Definitions

1. "Computer" means:

- a. Programmable electronic equipment that is used to store, retrieve and process data; and
- b. Associated peripheral equipment that provides communication, including input and output functions such as printing and auxiliary functions such as data transmission.

"Computer" does not include those used to operate production-type machinery or equipment.

- 2. "Counterfeit money" means an imitation of "money" that is intended to deceive and to be taken as genuine.
- 3. "Electronic data" means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a "computer" or device connected to it, which enable the "computer" or device to receive, process, store, retrieve or send data.
- 4. "Fungi" means any type or form of fungus, including mold or mildew, and any mycotoxins, spores, scents or by-products produced or released by fungi.
- 5. "Manager" means a person serving in a directorial capacity for a limited liability company.
- 6. "Member" means an owner of a limited liability company represented by its membership interest, who also may serve as a "manager".
- 7. "Money" means:
 - a. Currency, coins and bank notes in current use and having a face value; and
 - b. Traveler's checks, register checks and money orders held for sale to the public.
- 8. "Operations" means your business activities occurring at the described premises.
- 9. "Period of restoration":
 - a. Means the period of time that:
 - (1) Begins:
 - (a) 72 hours after the time of direct physical loss or damage for Business Income Coverage; or
 - (b) Immediately after the time of direct physical loss or damage for Extra Expense Coverage;

caused by or resulting from any Covered Cause of Loss at the described premises; and

(2) Ends on the earlier of:

(a) The date when the property at the described premises should be repaired, rebuilt or replaced with reasonable speed and similar quality; or

(b) The date when business is resumed at a new permanent location.

b. Does not include any increased period required due to the enforcement of or compliance with any ordinance or law that:

(1) Regulates the construction, use or repair, or requires the tearing down of any property; or

(2) Requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

The expiration date of this policy will not cut short the "period of restoration".

10. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

11. "Securities" means negotiable and nonnegotiable instruments or contracts representing either "money" or other property and includes:

a. Tokens, tickets, revenue and other stamps (whether represented by actual stamps or unused value in a meter) in current use; and

b. Evidences of debt issued in connection with credit or charge cards, which cards are not issued by you;

but does not include "money".

12. "Specified causes of loss" means the following:

Fire; lightning; explosion; windstorm or hail; smoke; aircraft or vehicles; riot or civil commotion; vandalism; leakage from fire extinguishing equipment; sinkhole collapse; volcanic action; falling objects; weight of snow, ice or sleet; water damage.

a. Sinkhole collapse means the sudden sinking or collapse of land into underground empty spaces created by the action of water on limestone or dolomite. This cause of loss does not include:

(1) The cost of filling sinkholes; or

(2) Sinking or collapse of land into man-made underground cavities.

b. Falling objects does not include loss of or damage to:

(1) Personal property in the open; or

(2) The interior of a building or structure, or property inside a building or structure, unless the roof or an outside wall of the building or structure is first damaged by a falling object.

c. Water damage means:

(1) Accidental discharge or leakage of water or steam as the direct result of the breaking apart or cracking of any part of a system or appliance (other than a sump system including its related equipment and parts) containing water or steam; and

(2) Accidental discharge or leakage of water or waterborne material as the direct result of the breaking apart or cracking of a water or sewer pipe that is located off the described premises and is part of a municipal potable water supply system or municipal sanitary sewer system, if the breakage or cracking is caused by wear and tear.

But water damage does not include loss or damage otherwise excluded under the terms of the Water Exclusion. Therefore, for example, there is no coverage in the situation in which discharge or leakage of water results from the breaking apart or cracking of a pipe which was caused by or related to weather-induced flooding, even if wear and tear contributed to the breakage or cracking. As another example, and also in accordance with the terms of the Water Exclusion, there is no coverage for loss or damage caused by or related to weather-induced flooding which follows or is exacerbated by pipe breakage or cracking attributable to wear and tear.

To the extent that accidental discharge or leakage of water falls within the criteria set forth in **c.(1)** or **c.(2)** of this definition of "specified causes of loss", such water is not subject to the provisions of the Water Exclusion which preclude coverage for surface water or water under the ground surface.

13. "Stock" means merchandise held in storage or for sale, raw materials and in-process or finished goods, including supplies used in their packing or shipping.

14. "Valuable papers and records" means inscribed, printed or written:

- a. Documents;
- b. Manuscripts; and
- c. Records;

including abstracts, books, deeds, drawings, films, maps or mortgages.

But "valuable papers and records" does not mean "money" or "securities".

SECTION II – LIABILITY

A. Coverages

1. Business Liability

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury", "property damage" or "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" or any offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Paragraph **D. Liability And Medical Expenses Limits Of Insurance in Section II – Liability;** and
- (2) Our right and duty to defend end when we have used up the applicable Limit of Insurance in the payment of judgments or settlements or medical expenses.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Paragraph **f. Coverage Extension – Supplementary Payments.**

- b. This insurance applies:

- (1) To "bodily injury" and "property damage" only if:
 - (a) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
 - (b) The "bodily injury" or "property damage" occurs during the policy period; and

- (c) Prior to the policy period, no insured listed under Paragraph **C.1. Who Is An Insured** and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known before the policy period.

- (2) To "personal and advertising injury" caused by an offense arising out of your business, but only if the offense was committed in the "coverage territory" during the policy period.

- c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph **C.1. Who Is An Insured** or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of "bodily injury" or "property damage" after the end of the policy period.

- d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph **C.1. Who Is An Insured** or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
- (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
- (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

- e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

f. Coverage Extension – Supplementary Payments

(1) We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

- (a) All expenses we incur.
- (b) Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which Business Liability Coverage for "bodily injury" applies. We do not have to furnish these bonds.
- (c) The cost of bonds to release attachments, but only for bond amounts within our Limit of Insurance. We do not have to furnish these bonds.
- (d) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
- (e) All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
- (f) Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the Limit of Insurance, we will not pay any prejudgment interest based on that period of time after the offer.
- (g) All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within our Limit of Insurance.

These payments will not reduce the limit of liability.

(2) If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

- (a) The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
- (b) This insurance applies to such liability assumed by the insured;
- (c) The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
- (d) The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
- (e) The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- (f) The indemnitee:
 - (i) Agrees in writing to:
 - i. Cooperate with us in the investigation, settlement or defense of the "suit";
 - ii. Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
 - iii. Notify any other insurer whose coverage is available to the indemnitee; and

- iv. Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
- (ii) Provides us with written authorization to:
 - i. Obtain records and other information related to the "suit"; and
 - ii. Conduct and control the defense of the indemnitee in such "suit".
- (3) So long as the conditions in Paragraph (2) are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph B.1.b.(2) Exclusions in Section II – Liability, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the Limits of Insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

- (a) We have used up the applicable Limit of Insurance in the payment of judgments or settlements; or
- (b) The conditions set forth above, or the terms of the agreement described in Paragraph (2)(f) above, are no longer met.

2. Medical Expenses

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:
 - (1) On premises you own or rent;
 - (2) On ways next to premises you own or rent; or
 - (3) Because of your operations;
 provided that:
 - (a) The accident takes place in the "coverage territory" and during the policy period;
 - (b) The expenses are incurred and reported to us within one year of the date of the accident; and

- (c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.
- b. We will make these payments regardless of fault. These payments will not exceed the Limits of Insurance of Section II – Liability. We will pay reasonable expenses for:
 - (1) First aid administered at the time of an accident;
 - (2) Necessary medical, surgical, X-ray and dental services, including prosthetic devices; and
 - (3) Necessary ambulance, hospital, professional nursing and funeral services.

B. Exclusions

1. Applicable To Business Liability Coverage

This insurance does not apply to:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:
 - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and

- (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies even if the claims allege negligence or other wrongdoing in:

- (a) The supervision, hiring, employment, training or monitoring of others by an insured; or
- (b) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

if the "occurrence" which caused the "bodily injury" or "property damage", involved that which is described in Paragraph (1), (2) or (3) above.

However, this exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
 - (a) Employment by the insured; or

- (b) Performing duties related to the conduct of the insured's business; or

- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

f. Pollution

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

- (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:

- (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;

- (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";

- (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
 - (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:
 - (i) Any insured; or
 - (ii) Any person or organization for whom you may be legally responsible;
 - (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:
 - (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;
 - (ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or
 - (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire"; or
 - (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".
- (2) Any loss, cost or expense arising out of any:
- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
 - (b) Claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".
- However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement or such claim or "suit" by or on behalf of a governmental authority.
- g. Aircraft, Auto Or Watercraft**
- "Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
 - (a) Less than 51 feet long; and
 - (b) Not being used to carry persons or property for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or
- (5) "Bodily injury" or "property damage" arising out of:
 - (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance or motor vehicle registration law where it is licensed or principally garaged; or
 - (b) The operation of any of the following machinery or equipment:
 - (i) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
 - (ii) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition or stunting activity.

i. War

"Bodily injury", "property damage" or "personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by government authority in hindering or defending against any of these.

j. Professional Services

"Bodily injury", "property damage" or "personal and advertising injury" caused by the rendering or failure to render any professional service. This includes but is not limited to:

- (1) Legal, accounting or advertising services;
- (2) Preparing, approving, or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications;
- (3) Supervisory, inspection or engineering services;
- (4) Medical, surgical, dental, X-ray or nursing services treatment, advice or instruction;
- (5) Any health or therapeutic service treatment, advice or instruction;
- (6) Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement or personal grooming;

- (7) Optometry or optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;
- (8) Body piercing services; and
- (9) Services in the practice of pharmacy.

This exclusion applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering or failure to render of any professional service.

k. Damage To Property

"Property damage" to:

- (1) Property you own, rent or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractor or subcontractor working directly or indirectly on your behalf is performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of seven or fewer consecutive days. A separate Limit of Insurance applies to Damage To Premises Rented To You as described in Paragraph D. Liability And Medical Expenses Limits Of Insurance in Section II – Liability.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

l. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

m. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

n. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

o. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

p. Personal And Advertising Injury

"Personal and advertising injury":

- (1) Caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury";
- (2) Arising out of oral or written publication, in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity;
- (3) Arising out of oral or written publication, in any manner, of material whose first publication took place before the beginning of the policy period;
- (4) For which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement;
- (5) Arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement";
- (6) Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement";
- (7) Arising out of the wrong description of the price of goods, products or services stated in your "advertisement";
- (8) Committed by an insured whose business is:
 - (a) Advertising, broadcasting, publishing or telecasting;
 - (b) Designing or determining content of web sites for others; or
 - (c) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs **14.a.**, **b.** and **c.** of "personal and advertising injury" under Paragraph **F. Liability And Medical Expenses Definitions.**

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, by itself, is not considered the business of advertising, broadcasting, publishing or telecasting;

- (9) Arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time;
 - (10) With respect to any loss, cost or expense arising out of any:
 - (a) Request, demand or order that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
 - (b) Claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants";
 - (11) Arising out of an electronic chatroom or bulletin board the insured hosts, owns or over which the insured exercises control;
 - (12) Arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights. Under this exclusion, such other intellectual property rights do not include the use of another's advertising idea in your "advertisement".
- However, this exclusion does not apply to infringement, in your "advertisement", of copyright, trade dress or slogan;
- (13) Arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatags, or any other similar tactics to mislead another's potential customers.

q. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

However, this exclusion does not apply to liability for damages because of "bodily injury".

As used in this exclusion, electronic data means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive, process, store, retrieve or send data.

r. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

s. Recording And Distribution Of Material Or Information In Violation Of Law

"Bodily injury", "property damage" or "personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transaction Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

Exclusions **c., d., e., f., g., h., i., k., l., m., n.** and **o.** in Section II – Liability do not apply to damage by fire to premises while rented to you, or temporarily occupied by you with permission of the owner. A separate Damage To Premises Rented To You Limit of Insurance applies to this coverage as described in Paragraph **D. Liability And Medical Expenses Limits of Insurance** in Section II – Liability.

2. Applicable To Medical Expenses Coverage

We will not pay expenses for "bodily injury":

- a. To any insured, except "volunteer workers".
- b. To a person hired to do work for or on behalf of any insured or a tenant of any insured.
- c. To a person injured on that part of premises you own or rent that the person normally occupies.
- c. To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.
- e. To a person injured while practicing, instructing or participating in any physical exercises or games, sports or athletic contests.
- f. Included within the "products-completed operations hazard".
- g. Excluded under Business Liability Coverage.

3. Applicable To Both Business Liability Coverage And Medical Expenses Coverage - Nuclear Energy Liability Exclusion

This insurance does not apply:

- a. Under Business Liability Coverage, to "bodily injury" or "property damage":
 - (1) With respect to which an insured under the policy is also an insured under a nuclear energy liability policy issued by the Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or

- (2) Resulting from the "hazardous properties" of "nuclear material" and with respect to which:
- (a) Any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof; or
 - (b) The insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
- b. Under Medical Expenses Coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear material" and arising out of the operation of a "nuclear facility" by any person or organization.
- c. Under Business Liability Coverage, to "bodily injury" or "property damage" resulting from the "hazardous properties" of the "nuclear material"; if:
- (1) The "nuclear material":
 - (a) Is at any "nuclear facility" owned by, or operated by or on behalf of, an insured; or
 - (b) Has been discharged or dispersed therefrom;
 - (2) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an insured; or
 - (3) The "bodily injury" or "property damage" arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility"; but if such facility is located within the United States of America, its territories or possessions or Canada, this Exclusion (3) applies only to "property damage" to such "nuclear facility" and any property thereat.
- d. As used in this exclusion:
- (1) "By-product material" has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof;
 - (2) "Hazardous properties" include radioactive, toxic or explosive properties;
 - (3) "Nuclear facility" means:
 - (a) Any "nuclear reactor";
 - (b) Any equipment or device designed or used for:
 - (i) Separating the isotopes of uranium or plutonium;
 - (ii) Processing or utilizing "spent fuel"; or
 - (iii) Handling, processing or packaging "waste";
 - (c) Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
 - (d) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of "waste";

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

 - (4) "Nuclear material" means "source material", "special nuclear material" or "by-product material";
 - (5) "Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;
 - (6) "Property damage" includes all forms of radioactive contamination of property;
 - (7) "Source material" has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof;
 - (8) "Special nuclear material" has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof;
 - (9) "Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor";

(10) "Waste" means any waste material:

- (a)** Containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content; and
- (b)** Resulting from the operation by any person or organization of any "nuclear facility" included under Paragraphs **(a)** and **(b)** of the definition of "nuclear facility".

C. Who Is An Insured

1. If you are designated in the Declarations as:

- a.** An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b.** A partnership or joint venture, you are an insured. Your members, your partners and their spouses are also insureds, but only with respect to the conduct of your business.
- c.** A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d.** An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
- e.** A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

- a.** Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:

(1) "Bodily injury" or "personal and advertising injury":

- (a)** To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), or to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
- (b)** To the spouse, child, parent, brother or sister of that co-"employee" as a consequence of Paragraph **(a)** above;
- (c)** For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph **(a)** or **(b)**; or
- (d)** Arising out of his or her providing or failing to provide professional health care services.

(2) "Property damage" to property:

- (a)** Owned, occupied or used by;

(b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

- b. Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.
- c. Any person or organization having proper temporary custody of your property if you die, but only:
 - (1) With respect to liability arising out of the maintenance or use of that property; and
 - (2) Until your legal representative has been appointed.
- d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this policy.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

D. Liability And Medical Expenses Limits Of Insurance

1. The Limits of Insurance of Section II – Liability shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
 - a. Insureds;
 - b. Claims made or "suits" brought; or
 - c. Persons or organizations making claims or bringing "suits".
2. The most we will pay for the sum of all damages because of all:
 - a. "Bodily injury", "property damage" and medical expenses arising out of any one "occurrence"; and
 - b. "Personal and advertising injury" sustained by any one person or organization;

is the Liability and Medical Expenses limit shown in the Declarations. But the most we will pay for all medical expenses because of "bodily injury" sustained by any one person is the Medical Expenses limit shown in the Declarations.

3. The most we will pay under Business Liability Coverage for damages because of "property damage" to a premises while rented to you or in the case of fire while rented to you or temporarily occupied by you with permission of the owner is the applicable Damage To Premises Rented To You limit shown for that premises in the Declarations. For a premises temporarily occupied by you, the applicable limit will be the highest Damage To Premises Rented To You limit shown in the Declarations.

4. Aggregate Limits

The most we will pay for:

- a. All "bodily injury" and "property damage" that is included in the "products-completed operations hazard" is twice the Liability and Medical Expenses limit.
- b. All:
 - (1) "Bodily injury" and "property damage" except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard";
 - (2) Plus medical expenses;
 - (3) Plus all "personal and advertising injury" caused by offenses committed;

is twice the Liability and Medical Expenses limit.

Subject to Paragraph a. or b. above, whichever applies, the Damage To Premises Rented To You limit is the most we will pay for damages because of "property damage" to any one premises, while rented to you, or in the case of fire, while rented to you or temporarily occupied by you with permission of the owner.

The Limits of Insurance of Section II – Liability apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

E. Liability And Medical Expenses General Conditions

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this policy.

2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:
 - (1) How, when and where the "occurrence" or offense took place;
 - (2) The names and addresses of any injured persons and witnesses; and
 - (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.
- b. If a claim is made or "suit" is brought against any insured, you must:
 - (1) Immediately record the specifics of the claim or "suit" and the date received; and
 - (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.
- c. You and any other involved insured must:
 - (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
 - (2) Authorize us to obtain records and other information;
 - (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
 - (4) Assist us, upon our request, in the enforcement of any right against any person or organization that may be liable to the insured because of injury or damage to which this insurance may also apply.
- d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

3. Legal Action Against Us

No person or organization has a right under this policy:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this policy unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this policy or that are in excess of the applicable Limit of Insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

4. Separation Of Insureds

Except with respect to the Limits of Insurance of Section II – Liability, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

F. Liability And Medical Expenses Definitions

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
 - a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
 - b. Regarding web sites, only that part of a web site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.
2. "Auto" means:
 - a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
 - b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance or motor vehicle registration law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".
3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
4. "Coverage territory" means:
 - a. The United States of America (including its territories and possessions), Puerto Rico and Canada;

- b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in Paragraph **a.** above; or
- c. All other parts of the world if the injury or damage arises out of:
 - (1) Goods or products made or sold by you in the territory described in Paragraph **a.** above;
 - (2) The activities of a person whose home is in the territory described in Paragraph **a.** above, but is away for a short time on your business; or
 - (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication;

provided the insured's responsibility to pay damages is determined in a "suit" on the merits in the territory described in Paragraph **a.** above or in a settlement we agree to.

- 5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
- 6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, bylaws or any other similar governing document.
- 7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
- 8. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
 - a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
 - b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by:

 - (1) The repair, replacement, adjustment or removal of "your product" or "your work"; or
 - (2) Your fulfilling the terms of the contract or agreement.
- 9. "Insured contract" means:
 - a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";

- b. A sidetrack agreement;
- c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph **f.** does not include that part of any contract or agreement:

- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;
 - (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
 - (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in Paragraph **(2)** above and supervisory, inspection or engineering services.
10. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

11. "Loading or unloading" means the handling of property:

- a.** After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
- b.** While it is in or on an aircraft, watercraft or "auto"; or
- c.** While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

12. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

- a.** Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b.** Vehicles maintained for use solely on or next to premises you own or rent;
- c.** Vehicles that travel on crawler treads;
- d.** Vehicles, whether self-propelled or not, on which are permanently mounted:
 - (1)** Power cranes, shovels, loaders, diggers or drills; or
 - (2)** Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e.** Vehicles not described in Paragraph **a.**, **b.**, **c.** or **d.** above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - (1)** Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - (2)** Cherry pickers and similar devices used to raise or lower workers;
- f.** Vehicles not described in Paragraph **a.**, **b.**, **c.** or **d.** above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

(1) Equipment designed primarily for:

- (a)** Snow removal;
- (b)** Road maintenance, but not construction or resurfacing; or
- (c)** Street cleaning;

(2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

(3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance or motor vehicle registration law where they are licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law or motor vehicle registration law are considered "autos".

13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

14. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

- a.** False arrest, detention or imprisonment;
- b.** Malicious prosecution;
- c.** The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
- d.** Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e.** Oral or written publication, in any manner, of material that violates a person's right of privacy;

- f. The use of another's advertising idea in your "advertisement"; or
- g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".

15. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

16. "Products-completed operations hazard":

- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

(1) Products that are still in your physical possession; or

(2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:

(a) When all of the work called for in your contract has been completed.

(b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.

(c) When that part of the work done at the job site has been put to its intended use by any other person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

The "bodily injury" or "property damage" must occur away from premises you own or rent, unless your business includes the selling, handling or distribution of "your product" for consumption on premises you own or rent.

- b. Does not include "bodily injury" or "property damage" arising out of:

(1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured; or

(2) The existence of tools, uninstalled equipment or abandoned or unused materials.

17. "Property damage" means:

a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or

b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, electronic data is not tangible property.

As used in this definition, electronic data means information, facts or programs stored as, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

18. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage", or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or

b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

19. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

20. "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

21. "Your product":

a. Means:

(1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:

(a) You;

(b) Others trading under your name; or

- (c) A person or organization whose business or assets you have acquired; and
 - (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
 - b. Includes:
 - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
 - (2) The providing of or failure to provide warnings or instructions.
 - c. Does not include vending machines or other property rented to or located for the use of others but not sold.
22. "Your work":
- a. Means:
 - (1) Work or operations performed by you or on your behalf; and
 - (2) Materials, parts or equipment furnished in connection with such work or operations.
 - b. Includes:
 - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
 - (2) The providing of or failure to provide warnings or instructions.

SECTION III – COMMON POLICY CONDITIONS (APPLICABLE TO SECTION I – PROPERTY AND SECTION II – LIABILITY)

A. Cancellation

- 1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
- 2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
 - a. Five days before the effective date of cancellation if any one of the following conditions exists at any building that is Covered Property in this policy:
 - (1) The building has been vacant or unoccupied 60 or more consecutive days. This does not apply to:
 - (a) Seasonal unoccupancy; or
 - (b) Buildings in the course of construction, renovation or addition.

Buildings with 65% or more of the rental units or floor area vacant or unoccupied are considered unoccupied under this provision.

- (2) After damage by a Covered Cause of Loss, permanent repairs to the building:
 - (a) Have not started; and
 - (b) Have not been contracted for; within 30 days of initial payment of loss.
- (3) The building has:
 - (a) An outstanding order to vacate;
 - (b) An outstanding demolition order; or
 - (c) Been declared unsafe by governmental authority.
- (4) Fixed and salvageable items have been or are being removed from the building and are not being replaced. This does not apply to such removal that is necessary or incidental to any renovation or remodeling.
- (5) Failure to:
 - (a) Furnish necessary heat, water, sewer service or electricity for 30 consecutive days or more, except during a period of seasonal unoccupancy; or
 - (b) Pay property taxes that are owing and have been outstanding for more than one year following the date due, except that this provision will not apply where you are in a bona fide dispute with the taxing authority regarding payment of such taxes.
- b. 10 days before the effective date of cancellation if we cancel for nonpayment of premium.
- c. 30 days before the effective date of cancellation if we cancel for any other reason.
- 3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
- 4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
- 5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.

6. If notice is mailed, proof of mailing will be sufficient proof of notice.

B. Changes

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

C. Concealment, Misrepresentation Or Fraud

This policy is void in any case of fraud by you as it relates to this policy at any time. It is also void if you or any other insured, at any time, intentionally conceals or misrepresents a material fact concerning:

1. This policy;
2. The Covered Property;
3. Your interest in the Covered Property; or
4. A claim under this policy.

D. Examination Of Your Books And Records

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

E. Inspections And Surveys

1. We have the right to:
 - a. Make inspections and surveys at any time;
 - b. Give you reports on the conditions we find; and
 - c. Recommend changes.
2. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:
 - a. Are safe and healthful; or
 - b. Comply with laws, regulations, codes or standards.
3. Paragraphs 1. and 2. of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

4. Paragraph 2. of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

F. Insurance Under Two Or More Coverages

If two or more of this policy's coverages apply to the same loss or damage, we will not pay more than the actual amount of the loss or damage.

G. Liberalization

If we adopt any revision that would broaden the coverage under this policy without additional premium within 45 days prior to or during the policy period, the broadened coverage will immediately apply to this policy.

H. Other Insurance

1. If there is other insurance covering the same loss or damage, we will pay only for the amount of covered loss or damage in excess of the amount due from that other insurance, whether you can collect on it or not. But we will not pay more than the applicable Limit of Insurance of Section I – Property.
2. Business Liability Coverage is excess over:
 - a. Any other insurance that insures for direct physical loss or damage; or
 - b. Any other primary insurance available to you covering liability for damages arising out of the premises or operations for which you have been added as an additional insured.
3. When this insurance is excess, we will have no duty under Business Liability Coverage to defend any claim or "suit" that any other insurer has a duty to defend. If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

I. Premiums

1. The first Named Insured shown in the Declarations:
 - a. Is responsible for the payment of all premiums; and
 - b. Will be the payee for any return premiums we pay.
2. The premium shown in the Declarations was computed based on rates in effect at the time the policy was issued. On each renewal, continuation or anniversary of the effective date of this policy, we will compute the premium in accordance with our rates and rules then in effect.

3. With our consent, you may continue this policy in force by paying a continuation premium for each successive one-year period. The premium must be:

- a. Paid to us prior to the anniversary date; and
- b. Determined in accordance with Paragraph 2. above.

Our forms then in effect will apply. If you do not pay the continuation premium, this policy will expire on the first anniversary date that we have not received the premium.

4. Undeclared exposures or change in your business operation, acquisition or use of locations may occur during the policy period that are not shown in the Declarations. If so, we may require an additional premium. That premium will be determined in accordance with our rates and rules then in effect.

J. Premium Audit

1. This policy is subject to audit if a premium designated as an advance premium is shown in the Declarations. We will compute the final premium due when we determine your actual exposures.
2. Premium shown in this policy as advance premium is a deposit premium only. At the close of each audit period, we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
3. The first Named Insured must keep records of the information we need for premium computation and send us copies at such times as we may request.

K. Transfer Of Rights Of Recovery Against Others To Us

1. Applicable to Businessowners Property Coverage:

If any person or organization to or for whom we make payment under this policy has rights to recover damages from another, those rights are transferred to us to the extent of our payment. That person or organization must do everything necessary to secure our rights and must do nothing after loss to impair them. But you may waive your rights against another party in writing:

- a. Prior to a loss to your Covered Property.

- b. After a loss to your Covered Property only if, at time of loss, that party is one of the following:

- (1) Someone insured by this insurance;
- (2) A business firm:
 - (a) Owned or controlled by you; or
 - (b) That owns or controls you; or
- (3) Your tenant.

You may also accept the usual bills of lading or shipping receipts limiting the liability of carriers.

This will not restrict your insurance.

2. Applicable to Businessowners Liability Coverage:

If the insured has rights to recover all or part of any payment we have made under this policy, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

L. Transfer Of Your Rights And Duties Under This Policy

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual Named Insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EMPLOYMENT-RELATED PRACTICES EXCLUSION

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

The following exclusion is added to Paragraph B.1.
Exclusions - Applicable To Business Liability Coverage
in Section II - Liability:

This insurance does not apply to "bodily injury" or "personal and advertising injury" to:

(1) A person arising out of any:

- (a) Refusal to employ that person;
- (b) Termination of that person's employment; or
- (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious prosecution directed at that person; or

- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" or "personal and advertising injury" to that person at whom any of the employment-related practices described in Paragraph (a), (b) or (c) above is directed.

This exclusion applies:

- (1) Whether the injury-causing event described in paragraph (a), (b) or (c) above occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CALCULATION OF PREMIUM

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

The following is added:

The premium shown in the Declarations was computed based on rates in effect at the time the policy was issued. On each renewal, continuation, or anniversary of the effective date of this policy, we will compute the premium in accordance with our rates and rules then in effect.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - SILICA OR SILICA-RELATED DUST

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

A. The following exclusion is added to Paragraph B. Exclusions in Section II - Liability:

B. Exclusions

This insurance does not apply to:

SILICA OR SILICA-RELATED DUST

1. "Bodily injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, or ingestion of, "silica" or "silica-related dust".
2. "Property damage" arising, in whole or in part, out of the actual, alleged, threatened or suspected contact with, exposure to, existence of, or presence of, "silica" or "silica related dust".
3. "Personal and advertising injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, "silica" or "silica-related dust".

4. Any loss, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to or assessing the effects of, "silica" or "silica-related dust", by any insured or by any other person or entity.

B. The following definitions are added to Paragraph F. Liability And Medical Expenses Definitions in Section II - Liability:

1. "Silica" means silicon dioxide, (occurring in crystalline, amorphous and impure forms), silica particles, silica dust or silica compounds.
2. "Silica-related dust" means a mixture or combination of silica and other dust or particles.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

The following provisions are added to the Businessowners Policy and apply to Property and Liability Coverages:

A. CAP ON CERTIFIED TERRORISM LOSSES

"Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in accordance with the provisions of the federal Terrorism Risk Insurance Act, to be an act of terrorism pursuant to such Act. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:

1. The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and
2. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

If aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a calendar year and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

- B.** The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for loss or injury or damage that is otherwise excluded under this Policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

FUNGI OR BACTERIA EXCLUSION (LIABILITY)

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

The following provisions are added to Section II - Liability:

A. The following exclusion is added to Paragraph B.1., Exclusions - Applicable To Business Liability Coverage:

t. Fungi Or Bacteria

- (1) "Bodily injury", "property damage" or "personal and advertising injury" which would not have occurred, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any "fungi" or bacteria on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury or damage.

- (2) Any loss, cost or expenses arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of, "fungi" or bacteria, by any insured or by any other person or entity.

This exclusion does not apply to any "fungi" or bacteria that are, are on, or are contained in, a good or product intended for bodily consumption.

B. The following definition is added Paragraph F. Liability And Medical Expenses Definitions:

1. "Fungi" means any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents or by-products produced or released by fungi.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EXCLUSION – ACCESS OR DISCLOSURE OF
CONFIDENTIAL OR PERSONAL INFORMATION AND
DATA-RELATED LIABILITY – WITH LIMITED
BODILY INJURY EXCEPTION**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

- A. Exclusion B.1.q. of Section II – Liability** is replaced by the following:

This insurance does not apply to:

q. Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability

- (1)** Damages, other than damages because of "personal and advertising injury", arising out of any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or
- (2)** Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in Paragraph **(1)** or **(2)** above.

However, unless Paragraph **(1)** above applies, this exclusion does not apply to damages because of "bodily injury".

As used in this exclusion, electronic data means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive, process, store, retrieve or send data.

B. The following is added to Paragraph **B.1.p. Personal And Advertising Injury** Exclusion of **Section II – Liability**:

This insurance does not apply to:

p. Personal And Advertising Injury

"Personal and advertising injury":

Arising out of any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of any access to or disclosure of any person's or organization's confidential or personal information.

BUSINESSOWNERS COVERAGE FORM INDEX

This index is provided only as a convenience. It should not be assumed to provide a reference to every provision that can affect a question, claim or coverage. To determine the full scope of coverage and pertinent restrictions and exclusions, the policy (including endorsements) must be read in its entirety. The features may also be affected by related provisions not referenced at all in the index, or noted elsewhere in it. For instance, an **Exclusion** feature addresses a specific policy exclusion; but restrictions of coverage and exclusions also appear within the areas where coverage, covered causes of loss, etc., are described.

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AMENDATORY ENDORSEMENT

This insurance does not apply under any of the coverages to damages arising out of:

- a. **misconduct** by an **insured**, or
- b. the liability of the **insured** for the **misconduct** of another **insured** or any other person.

The following definition is added:

Misconduct as used in this any person.



BUSINESSOWNERS POLICY CHANGES

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Account No: ACP0P5335

Policy No: WOP5335

Agent Number: 660019

Named Insured:
HARMAR BARBERS
609 2ND ST
KENYON, MN 55946

Agent:
SAFEWAY AGENCY, INC
34 W MAIN ST
PO BOX 245
DODGE CENTER, MN 55927

THIS ENDORSEMENT FORMS A PART OF THE POLICY NUMBERED ABOVE.

Policy Period: Effective from 05/07/2020 to 05/07/2021
Effective Date of Change: 05/07/2020

The amendments below result in a change in the premium as follows: No Premium Change

REMOVAL PERMIT If Covered Property is removed to a new location that is described on this Policy Change, you may extend this insurance to include that Covered Property at each location during the removal. Coverage at each location will apply in the proportion that the value at each location bears to the value of all Covered Property being removed. This permit applies up to 10 days after the effective date of this Policy Change; after that, this insurance does not apply at the previous location.

POLICY CHANGES ENDORSEMENT DESCRIPTION

Date Printed: April 2, 2020

As of the effective date of change, the attached declarations replace any declarations issued prior to the date printed.

<u>Description</u>	<u>Prior Value</u>	<u>Current Value</u>
Changed: BP0402 Additional Insured - Managers Or Lessors Of Premises		
Location 1 2100 N SNELLING STE 171 ROSEVILLE MN 55113		
Name of Person or Organization		GATEWAY WASHINGTON INC
		MID AMERICA REAL ESTATE
		MINNESOTA LLC
		5353 WAYZATA BLVD STE 650
		MINNEAPOLIS, MN 55416

**Wadena Insurance**
BUSINESSOWNERS
DECLARATIONSAmendment
Effective: 05/07/2020

INSURED COPY

Account No: ACP0P5335

Policy No: WOP5335

Previous Policy No:

Agent Number: 660019

Named Insured:
HARMAR BARBERS
609 2ND ST
KENYON, MN 55946Agent:
SAFEWAY AGENCY, INC
34 W MAIN ST
PO BOX 245
DODGE CENTER, MN 55927Policy Period: From **05/07/2020** to **05/07/2021** 12:01 A.M. Standard Time at your mailing address shown above.

Form Of Business: Corporation

Insured's Business: BARBER

**IN RETURN FOR YOUR PAYMENT OF THE REQUIRED PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY,
WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.**

PREMIUM SUMMARY	
Section I - Property	
Building/Business Personal Property Premium	\$67
Includes Business Income and Extra Expense	
Additional/Optional Property Coverages (Premises Level) Premium	\$150
Including: Equipment Breakdown	
Property Ultra Plus	
Additional/Optional Property Coverages (Policy Level) Premium	Included
Including: Identity Recovery	
Section II - Liability	
Premises Liability Premium	\$35
Additional/Optional Liability Coverages	\$176
Including: Barber Shops And Hair Salons Professional Liability	
Employment Practices Liability Coverage	
ADVANCED PREMIUM - MINIMUM PREMIUM	\$550

The premium for certain coverages apply in addition to the minimum premium.

Countersignature_____
Date

Date Issued: 04/02/2020



**BUSINESSOWNERS
DECLARATIONS
SCHEDULE OF INSUREDS**

Policy No: WOP5335
Policy Period:
From 05/07/2020 to 05/07/2021

INSURED NAMES

Corporation

HARMAR BARBERS



**BUSINESSOWNERS
DECLARATIONS
ENDORSEMENT SCHEDULE**

Policy No: WOP5335
Policy Period:
From 05/07/2020 to 05/07/2021

ENDORSEMENT NUMBER AND EDITION DATE	ENDORSEMENT TITLE
BP IN 01 07 13	Businessowners Coverage Form Index
BP 00 03 07 13	Businessowners Coverage Form
BP 04 02 07 13	Additional Insured - Managers Or Lessors Of Premises
ML 60 22 06 94	Amendatory Endorsement
BO 08 01 07 13	Barber Shops And Hair Salons Professional Liability
BP 05 01 07 02	Calculation Of Premium
BP 05 23 01 15	Cap On Losses From Certified Acts Of Terrorism
BP 05 47 07 13	Computer Fraud And Funds Transfer Fraud
BP 05 64 01 15	Conditional Exclusion Of Terrorism (Relating To Disposition Of Federal Terrorism Risk Insurance Act)
BP 05 15 01 15	Disclosure Pursuant To Terrorism Risk Insurance Act
BO 60 46 01 11	Employment Practices Liability Insurance Coverage Endorsement
BP 04 17 01 10	Employment-Related Practices Exclusion
BO 60 50 01 11	Equipment Breakdown Coverage
BP 15 04 05 14	Exclusion - Access Or Disclosure Of Confidential Or Personal Information And Data-Related Liability - With Limited Bodily Injury Exception
BO 60 02 01 11	Exclusion - Asbestos Or Asbestos Products
BO 60 04 01 11	Exclusion - Punitive Damages
BP 05 17 01 06	Exclusion - Silica Or Silica-Related Dust
BO 60 84 05 16	Exclusion - Unmanned Aircraft
BP 05 77 01 06	Fungi Or Bacteria Exclusion (Liability)
BO 60 52 01 11	Identity Recovery Coverage - Identity Theft Case Management Service And Expense Reimbursement
BO 60 03 01 11	Lead Liability Exclusion
BO 01 25 03 15	Minnesota Changes
BO 60 37 05 16	Property Ultra Plus
BP 04 56 07 13	Utility Services - Direct Damage
BP 04 56 SC 05 16	Utility Services - Direct Damage Schedule
BP 04 57 07 13	Utility Services - Time Element
BP 04 57 SC 05 16	Utility Services - Time Element Schedule



**BUSINESSOWNERS
DECLARATIONS
ENDORSEMENT SCHEDULE**

Policy No: WOP5335
Policy Period:
From 05/07/2020 to 05/07/2021

ENDORSEMENT NUMBER AND EDITION DATE	ENDORSEMENT TITLE
ML 7000 MN 02 19	Wadena Insurance Company - Amendatory Endorsement
BP 04 53 07 13	Water Back-Up And Sump Overflow
BP 04 53 SC 01 14	Water Back-Up And Sump Overflow Schedule

**BUSINESSOWNERS
DECLARATIONS**Policy No: WOP5335
Policy Period:
From 05/07/2020 to 05/07/2021**SECTION I - PROPERTY**

Coverage is provided only where a premium or Limit of Insurance is shown.

Loc. No.	Location	Territory	Protection Class
1	2100 N SNELLING STE 171, ROSEVILLE, MN 55113	706	02

Loc. 1 - Deductibles (Apply Per Occurrence)

Property Deductible	Optional Coverage Deductible*	Windstorm or Hail Deductible
\$500	\$500	N/A

*Optional Coverage Deductible applies to Employee Dishonesty, Forgery Or Alteration, Money & Securities and Outdoor Signs.

Loc. 1 - Additional/Optional Property Coverages Premises Level

Coverage	Premium
Business Income From Dependent Properties* - \$10,000	Included
Secondary Dependent Properties - Included	
Equipment Breakdown	\$25
Property Ultra Plus	\$125
Water Back-Up and Sump Overflow *	Included
Additional/Optional Property Coverages Premises Level Premium	\$150

*Base limit included in an enhancement or PAK endorsement.



**BUSINESSOWNERS
DECLARATIONS
SECTION I - PROPERTY**

Policy No: WOP5335
Policy Period:
From 05/07/2020 to 05/07/2021

Bldg. No. 1 **Year Built** 1990 **Construction** Non-Combustible **Sprinkler** No **Occupancy** Occupant

Class Code 71332 **Class Description** Barber Shops

Bldg. 1 - Property

	Limit of Insurance	Valuation	Automatic Incr. Bldg Limit	BPP-Seasonal Incr.	Premium
Business Personal Property	\$11,000	Replacement Cost	NA	25%	\$67
Total Building and Business Personal Property Premium					\$67

Bldg. 1 - Additional/Optional Property Coverages Building Level

Coverage	Premium
Utility Services - Direct Damage*	Included
Utility Services - Time Element*	Included
Total Additional/Optional Property Coverages Building Level Premium	\$0

*Base limit included in an enhancement or PAK endorsement.

Policy-Wide Additional/Optional Property Coverages

Coverage	Premium
Computer Fraud and Funds Transfer Fraud*	Included
Identity Recovery	Included
Total Policy-Wide Additional/Optional Property Coverages Premium	\$0

*Base limit included in an enhancement or PAK endorsement.

**BUSINESSOWNERS
DECLARATIONS**Policy No: WOP5335
Policy Period:
From 05/07/2020 to 05/07/2021**SECTION II - LIABILITY**

Coverage is provided only where a premium or Limit of Insurance is shown.

LIABILITY AND MEDICAL EXPENSES COVERAGES AND LIMITS

Policy-Wide Liability Coverages	Limit Of Insurance	Advanced Premium
Liability And Medical Expenses	\$1,000,000 Per Occurrence	
Medical Expenses	\$5,000 Per Person	
Damage To Premises Rented To You	\$100,000 Any One Premise	
Other Than Products/Completed Operations Aggregate	\$2,000,000	
Products/Completed Operations Aggregate	\$2,000,000	
(This coverage does not apply to Professional Liability.)		
TOTAL ADVANCED LIABILITY PREMIUM		\$35

LIABILITY EXPOSURE BASIS (All classifications based on payroll or sales are subject to audit.)

Loc #	Bldg #	Class Code	Classification	Estimated Premium Basis
1	1	71332	Barber Shops	\$11,000 (L)

Key to premium basis: (S) Sales, (P) Payroll and (L) Limit of Insurance

ADDITIONAL LIABILITY COVERAGES**Coverages Applicable Per Policy**

Coverage	Premium
Additional Insured - Managers Or Lessors Of Premises	\$100
Barber Shops And Hair Salons Professional Liability - 1 Barbers	\$26
Employment Practices Liability Coverage	\$50
TOTAL ADDITIONAL LIABILITY COVERAGES PREMIUM	\$176

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - MANAGERS OR LESSORS OF PREMISES

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Designation Of Premises (Part Leased To You):

2100 N SNELLING STE 171, ROSEVILLE, MN 55113

Name Of Person(s) Or Organization(s) (Additional Insured):

M&T REAL ESTATE TRUST
350 PARK AVENUE
NEW YORK, NY 10022

Additional Premium: \$

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. The following is added to Paragraph C. Who Is An Insured:

3. The person(s) or organization(s) shown in the Schedule is also an additional insured, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Schedule.

However:

- a. The insurance afforded to such additional insured only applies to the extent permitted by law;
- b. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds the following additional exclusions apply:

This insurance does not apply to:

1. Any "occurrence" that takes place after you cease to be a tenant in the premises described in the Schedule.
2. Structural alterations, new construction or demolition operations performed by or for the person(s) or organization(s) designated in the Schedule.

- C.** With respect to the insurance afforded to these additional insureds, the following is added to Paragraph **D. Liability And Medical Expenses Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits Of Insurance shown in the Declarations.

whichever is less.

This endorsement shall not increase the applicable Limits Of Insurance shown in the Declarations.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - MANAGERS OR LESSORS OF PREMISES

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Designation Of Premises (Part Leased To You):

2100 N SNELLING STE 171, ROSEVILLE, MN 55113

Name Of Person(s) Or Organization(s) (Additional Insured):

EMMES REALTY SERVICES LLC

420 LEXINGTON AVENUE

ROOM 900

NEW YORK, NY 10170

Additional Premium: \$

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. The following is added to Paragraph C. Who Is An Insured:

- 3.** The person(s) or organization(s) shown in the Schedule is also an additional insured, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Schedule.

However:

- a.** The insurance afforded to such additional insured only applies to the extent permitted by law;
- b.** If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds the following additional exclusions apply:

This insurance does not apply to:

- 1.** Any "occurrence" that takes place after you cease to be a tenant in the premises described in the Schedule.
- 2.** Structural alterations, new construction or demolition operations performed by or for the person(s) or organization(s) designated in the Schedule.

- C.** With respect to the insurance afforded to these additional insureds, the following is added to Paragraph **D. Liability And Medical Expenses Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits Of Insurance shown in the Declarations.

whichever is less.

This endorsement shall not increase the applicable Limits Of Insurance shown in the Declarations.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - MANAGERS OR LESSORS OF PREMISES

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Designation Of Premises (Part Leased To You):

2100 N SNELLING STE 171, ROSEVILLE, MN 55113

Name Of Person(s) Or Organization(s) (Additional Insured):

EMMES ASSET MANAGEMENT

420 LEXINGTON AVENUE

ROOM 900

NEW YORK, NY 10170

Additional Premium: \$

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. The following is added to Paragraph C. Who Is An Insured:

- 3.** The person(s) or organization(s) shown in the Schedule is also an additional insured, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Schedule.

However:

- a.** The insurance afforded to such additional insured only applies to the extent permitted by law;
- b.** If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds the following additional exclusions apply:

This insurance does not apply to:

- 1.** Any "occurrence" that takes place after you cease to be a tenant in the premises described in the Schedule.
- 2.** Structural alterations, new construction or demolition operations performed by or for the person(s) or organization(s) designated in the Schedule.

- C.** With respect to the insurance afforded to these additional insureds, the following is added to Paragraph **D. Liability And Medical Expenses Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits Of Insurance shown in the Declarations.

whichever is less.

This endorsement shall not increase the applicable Limits Of Insurance shown in the Declarations.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - MANAGERS OR LESSORS OF PREMISES

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Designation Of Premises (Part Leased To You):

2100 N SNELLING STE 171, ROSEVILLE, MN 55113

Name Of Person(s) Or Organization(s) (Additional Insured):

GATEWAY WASHINGTON INC
%EMMES ASSET MANAGEMENT COMPANY LLC
420 LEXINGTON AVENUE
ROOM 900
NEW YORK, NY 10170

Additional Premium: \$

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. The following is added to Paragraph C. Who Is An Insured:

- 3.** The person(s) or organization(s) shown in the Schedule is also an additional insured, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Schedule.

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- b.** If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

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This insurance does not apply to:

- 1.** Any "occurrence" that takes place after you cease to be a tenant in the premises described in the Schedule.
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If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

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This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Designation Of Premises (Part Leased To You):

2100 N SNELLING STE 171, ROSEVILLE, MN 55113

Name Of Person(s) Or Organization(s) (Additional Insured):

GATEWAY WASHINGTON INC

MID AMERICA REAL ESTATE MINNESOTA LLC

5353 WAYZATA BLVD STE 650

MINNEAPOLIS, MN 55416

Additional Premium: \$

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. The following is added to Paragraph C. Who Is An Insured:

- 3.** The person(s) or organization(s) shown in the Schedule is also an additional insured, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Schedule.

However:

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This insurance does not apply to:

- 1.** Any "occurrence" that takes place after you cease to be a tenant in the premises described in the Schedule.
- 2.** Structural alterations, new construction or demolition operations performed by or for the person(s) or organization(s) designated in the Schedule.

- C.** With respect to the insurance afforded to these additional insureds, the following is added to Paragraph **D. Liability And Medical Expenses Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits Of Insurance shown in the Declarations.

whichever is less.

This endorsement shall not increase the applicable Limits Of Insurance shown in the Declarations.

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Kenneth Seifert d/b/a The Hair Place and
Harmar Barbers, Inc., individually and on
behalf of all others similarly situated,

Civil File No: 20-cv-01102 JRT/DTS

Plaintiffs,

v.

IMT Insurance Company,

Defendant.

**EXHIBIT D TO DEFENDANT'S
MOTION TO DISMISS**



Wadena Insurance
BUSINESSOWNERS
DECLARATIONS
 Renewal

INSURED COPY
 Account No: ACP0P5350
 Policy No: WOP5350
 Previous Policy No:
 Agent Number: 660019

Named Insured:
 KENNETH SEIFERT
 DBA THE HAIR PLACE
 609 2ND ST
 KENYON, MN 55946

Agent:
 SAFEWAY AGENCY, INC
 34 W MAIN ST
 PO BOX 245
 DODGE CENTER, MN 55927

Policy Period: From **05/07/2020** to **05/07/2021** 12:01 A.M. Standard Time at your mailing address shown above.

Form Of Business: Individual
 Insured's Business: BARBER SHOP

**IN RETURN FOR YOUR PAYMENT OF THE REQUIRED PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY,
 WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.**

PREMIUM SUMMARY

Section I - Property	
Building/Business Personal Property Premium Includes Business Income and Extra Expense	\$766
Additional/Optional Property Coverages (Premises Level) Premium Including: Equipment Breakdown Property Ultra Plus	\$207
Additional/Optional Property Coverages (Policy Level) Premium Including: Identity Recovery	Included
Section II - Liability	
Premises Liability Premium	\$30
Additional/Optional Liability Coverages Including: Barber Shops And Hair Salons Professional Liability	\$26
ADVANCED PREMIUM	\$1,029

This is a true and certified copy of the policy term shown.

_____ Countersignature	_____ Date
Date Issued: 03/23/2020	



BUSINESSOWNERS POLICY CHANGES

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Account No: ACP0P5350

Policy No: WOP5350

Agent Number: 660019

Named Insured:
KENNETH SEIFERT
DBA THE HAIR PLACE
609 2ND ST
KENYON, MN 55946

Agent:
SAFEWAY AGENCY, INC
34 W MAIN ST
PO BOX 245
DODGE CENTER, MN 55927

THIS ENDORSEMENT FORMS A PART OF THE POLICY NUMBERED ABOVE.

Policy Period: Effective from 05/07/2020 to 05/07/2021
Effective Date of Change: 05/07/2020

The amendments below result in a change in the premium as follows: No Premium Change

REMOVAL PERMIT If Covered Property is removed to a new location that is described on this Policy Change, you may extend this insurance to include that Covered Property at each location during the removal. Coverage at each location will apply in the proportion that the value at each location bears to the value of all Covered Property being removed. This permit applies up to 10 days after the effective date of this Policy Change; after that, this insurance does not apply at the previous location.

POLICY CHANGES ENDORSEMENT DESCRIPTION

Date Printed: April 17, 2020

As of the effective date of change, the attached declarations replace any declarations issued prior to the date printed.

<u>Description</u>	<u>Prior Value</u>	<u>Current Value</u>
Deleted: Mortgagee for Location	1 609 2ND ST KENYON MN 55946	Building 1 - Barber Shops
Name1	SECURITY STATE BANK OF KENYON	
Address1	602 2ND ST	
Address2	KENYON MN 55946	
Interest	MORTGAGEE	

**Wadena Insurance**
BUSINESSOWNERS
DECLARATIONSAmendment
Effective: 05/07/2020

INSURED COPY

Account No: ACP0P5350

Policy No: WOP5350

Previous Policy No:

Agent Number: 660019

Named Insured:
KENNETH SEIFERT
DBA THE HAIR PLACE
609 2ND ST
KENYON, MN 55946Agent:
SAFEWAY AGENCY, INC
34 W MAIN ST
PO BOX 245
DODGE CENTER, MN 55927Policy Period: From **05/07/2020** to **05/07/2021** 12:01 A.M. Standard Time at your mailing address shown above.

Form Of Business: Individual

Insured's Business: BARBER SHOP

**IN RETURN FOR YOUR PAYMENT OF THE REQUIRED PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY,
WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.**

PREMIUM SUMMARY	
Section I - Property	
Building/Business Personal Property Premium Includes Business Income and Extra Expense	\$766
Additional/Optional Property Coverages (Premises Level) Premium Including: Equipment Breakdown Property Ultra Plus	\$207
Additional/Optional Property Coverages (Policy Level) Premium Including: Identity Recovery	Included
Section II - Liability	
Premises Liability Premium	\$30
Additional/Optional Liability Coverages Including: Barber Shops And Hair Salons Professional Liability	\$26
ADVANCED PREMIUM	\$1,029

Countersignature

Date

Date Issued: 04/17/2020



**BUSINESSOWNERS
DECLARATIONS
SCHEDULE OF INSUREDS**

Policy No: WOP5350
Policy Period:
From 05/07/2020 to 05/07/2021

INSURED NAMES

Individual

KENNETH SEIFERT

DBA THE HAIR PLACE



**BUSINESSOWNERS
DECLARATIONS
ENDORSEMENT SCHEDULE**

Policy No: WOP5350
Policy Period:
From 05/07/2020 to 05/07/2021

ENDORSEMENT NUMBER AND EDITION DATE	ENDORSEMENT TITLE
BP IN 01 07 13	Businessowners Coverage Form Index
BP 00 03 07 13	Businessowners Coverage Form
ML 60 22 06 94	Amendatory Endorsement
BO 08 01 07 13	Barber Shops And Hair Salons Professional Liability
BP 05 01 07 02	Calculation Of Premium
BP 05 23 01 15	Cap On Losses From Certified Acts Of Terrorism
BP 05 47 07 13	Computer Fraud And Funds Transfer Fraud
BP 05 64 01 15	Conditional Exclusion Of Terrorism (Relating To Disposition Of Federal Terrorism Risk Insurance Act)
BP 05 15 01 15	Disclosure Pursuant To Terrorism Risk Insurance Act
BP 04 17 01 10	Employment-Related Practices Exclusion
BO 60 50 01 11	Equipment Breakdown Coverage
BP 15 04 05 14	Exclusion - Access Or Disclosure Of Confidential Or Personal Information And Data-Related Liability - With Limited Bodily Injury Exception
BO 60 02 01 11	Exclusion - Asbestos Or Asbestos Products
BO 60 22 01 11	Exclusion - Cosmetic Damage To Roof Coverings And Siding
BO 60 04 01 11	Exclusion - Punitive Damages
BP 05 17 01 06	Exclusion - Silica Or Silica-Related Dust
BO 60 84 05 16	Exclusion - Unmanned Aircraft
BP 05 77 01 06	Fungi Or Bacteria Exclusion (Liability)
BO 60 52 01 11	Identity Recovery Coverage - Identity Theft Case Management Service And Expense Reimbursement
BO 60 03 01 11	Lead Liability Exclusion
BO 01 25 03 15	Minnesota Changes
BP 04 46 07 13	Ordinance Or Law Coverage
BP 04 46 SC 05 16	Ordinance Or Law Schedule
BO 60 37 05 16	Property Ultra Plus
BP 04 56 07 13	Utility Services - Direct Damage
BP 04 56 SC 05 16	Utility Services - Direct Damage Schedule
BP 04 57 07 13	Utility Services - Time Element



**BUSINESSOWNERS
DECLARATIONS
ENDORSEMENT SCHEDULE**

Policy No: WOP5350
Policy Period:
From 05/07/2020 to 05/07/2021

ENDORSEMENT NUMBER AND EDITION DATE	ENDORSEMENT TITLE
BP 04 57 SC 05 16	Utility Services - Time Element Schedule
ML 7000 MN 02 19	Wadena Insurance Company - Amendatory Endorsement
BP 04 53 07 13	Water Back-Up And Sump Overflow
BP 04 53 SC 01 14	Water Back-Up And Sump Overflow Schedule

**BUSINESSOWNERS
DECLARATIONS**Policy No: WOP5350
Policy Period:
From 05/07/2020 to 05/07/2021**SECTION I - PROPERTY**

Coverage is provided only where a premium or Limit of Insurance is shown.

Loc. No.	Location	Territory	Protection Class
1	609 2ND ST, KENYON, MN 55946	702	05

Loc. 1 - Deductibles (Apply Per Occurrence)

Property Deductible	Optional Coverage Deductible*	Windstorm or Hail Deductible
\$500	\$500	N/A

*Optional Coverage Deductible applies to Employee Dishonesty, Forgery Or Alteration, Money & Securities and Outdoor Signs.

Loc. 1 - Additional/Optional Property Coverages Premises Level

Coverage	Premium
Business Income From Dependent Properties* - \$10,000	Included
Secondary Dependent Properties - Included	
Equipment Breakdown	\$82
Property Ultra Plus	\$125
Water Back-Up and Sump Overflow *	Included
Additional/Optional Property Coverages Premises Level Premium	\$207

*Base limit included in an enhancement or PAK endorsement.



**BUSINESSOWNERS
DECLARATIONS
SECTION I - PROPERTY**

Policy No: WOP5350
Policy Period:
From 05/07/2020 to 05/07/2021

Bldg. No. 1 **Year Built** 1950 **Construction** Non-Combustible **Sprinkler** No **Occupancy** Occupant

Class Code 71332 **Class Description** Barber Shops

Bldg. 1 - Property

	Limit of Insurance	Valuation	Automatic Incr. Bldg Limit	BPP-Seasonal Incr.	Premium
Building	\$225,767	Replacement Cost	2%	NA	\$718
Business Personal Property	\$8,900	Replacement Cost	NA	25%	\$48
Total Building and Business Personal Property Premium					\$766

Bldg. 1 - Additional/Optional Property Coverages Building Level

Coverage	Premium
Ordinance or Law*	Included
Utility Services - Direct Damage*	Included
Utility Services - Time Element*	Included
Total Additional/Optional Property Coverages Building Level Premium	\$0

*Base limit included in an enhancement or PAK endorsement.

Policy-Wide Additional/Optional Property Coverages

Coverage	Premium
Computer Fraud and Funds Transfer Fraud*	Included
Identity Recovery	Included
Total Policy-Wide Additional/Optional Property Coverages Premium	\$0

*Base limit included in an enhancement or PAK endorsement.

**BUSINESSOWNERS
DECLARATIONS**Policy No: WOP5350
Policy Period:
From 05/07/2020 to 05/07/2021**SECTION II - LIABILITY**

Coverage is provided only where a premium or Limit of Insurance is shown.

LIABILITY AND MEDICAL EXPENSES COVERAGES AND LIMITS

Policy-Wide Liability Coverages	Limit Of Insurance	Advanced Premium
Liability And Medical Expenses	\$1,000,000 Per Occurrence	
Medical Expenses	\$5,000 Per Person	
Damage To Premises Rented To You	\$100,000 Any One Premise	
Other Than Products/Completed Operations Aggregate	\$2,000,000	
Products/Completed Operations Aggregate	\$2,000,000	
(This coverage does not apply to Professional Liability.)		
TOTAL ADVANCED LIABILITY PREMIUM		\$30

LIABILITY EXPOSURE BASIS (All classifications based on payroll or sales are subject to audit.)

Loc #	Bldg #	Class Code	Classification	Estimated Premium Basis
1	1	71332	Barber Shops	\$8,900 (L)

Key to premium basis: (S) Sales, (P) Payroll and (L) Limit of Insurance

ADDITIONAL LIABILITY COVERAGES**Coverages Applicable Per Policy**

Coverage	Premium
Barber Shops And Hair Salons Professional Liability - 1 Barbers	\$26

TOTAL ADDITIONAL LIABILITY COVERAGES PREMIUM \$26



Wadena Insurance
BUSINESSOWNERS
DECLARATIONS
Renewal

INSURED COPY

Account No: ACP0P5350

Policy No: WOP5350

Previous Policy No:

Agent Number: 660019

Named Insured:
KENNETH SEIFERT
DBA THE HAIR PLACE
609 2ND ST
KENYON, MN 55946

Agent:
SAFEWAY AGENCY, INC
34 W MAIN ST
PO BOX 245
DODGE CENTER, MN 55927

Policy Period: From **05/07/2020** to **05/07/2021** 12:01 A.M. Standard Time at your mailing address shown above.

Form Of Business: Individual

Insured's Business: BARBER SHOP

**IN RETURN FOR YOUR PAYMENT OF THE REQUIRED PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY,
WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.**

PREMIUM SUMMARY	
Section I - Property	
Building/Business Personal Property Premium Includes Business Income and Extra Expense	\$766
Additional/Optional Property Coverages (Premises Level) Premium Including: Equipment Breakdown Property Ultra Plus	\$207
Additional/Optional Property Coverages (Policy Level) Premium Including: Identity Recovery	Included
Section II - Liability	
Premises Liability Premium	\$30
Additional/Optional Liability Coverages Including: Barber Shops And Hair Salons Professional Liability	\$26
ADVANCED PREMIUM	\$1,029

This is a true and certified copy of the policy term shown.

Countersignature

Date

Date Issued: 03/23/2020



**BUSINESSOWNERS
DECLARATIONS
SCHEDULE OF INSURED**

Policy No: WOP5350
Policy Period:
From 05/07/2020 to 05/07/2021

INSURED NAMES

Individual

KENNETH SEIFERT

DBA THE HAIR PLACE



**BUSINESSOWNERS
DECLARATIONS
ENDORSEMENT SCHEDULE**

Policy No: WOP5350
Policy Period:
From 05/07/2020 to 05/07/2021

ENDORSEMENT NUMBER AND EDITION DATE	ENDORSEMENT TITLE
BP IN 01 07 13	Businessowners Coverage Form Index
BP 00 03 07 13	Businessowners Coverage Form
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BP 04 17 01 10	Employment-Related Practices Exclusion
BO 60 50 01 11	Equipment Breakdown Coverage
BP 15 04 05 14	Exclusion - Access Or Disclosure Of Confidential Or Personal Information And Data-Related Liability - With Limited Bodily Injury Exception
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BP 04 46 SC 05 16	Ordinance Or Law Schedule
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BP 04 56 SC 05 16	Utility Services - Direct Damage Schedule
BP 04 57 07 13	Utility Services - Time Element



**BUSINESSOWNERS
DECLARATIONS
ENDORSEMENT SCHEDULE**

Policy No: WOP5350
Policy Period:
From 05/07/2020 to 05/07/2021

ENDORSEMENT NUMBER AND EDITION DATE	ENDORSEMENT TITLE
BP 04 57 SC 05 16	Utility Services - Time Element Schedule
ML 7000 MN 02 19	Wadena Insurance Company - Amendatory Endorsement
BP 04 53 07 13	Water Back-Up And Sump Overflow
BP 04 53 SC 01 14	Water Back-Up And Sump Overflow Schedule

**BUSINESSOWNERS
DECLARATIONS**Policy No: WOP5350
Policy Period:
From 05/07/2020 to 05/07/2021**SECTION I - PROPERTY**

Coverage is provided only where a premium or Limit of Insurance is shown.

Loc. No.	Location	Territory	Protection Class
1	609 2ND ST, KENYON, MN 55946	702	05

Loc. 1 - Deductibles (Apply Per Occurrence)

Property Deductible	Optional Coverage Deductible*	Windstorm or Hail Deductible
\$500	\$500	N/A

*Optional Coverage Deductible applies to Employee Dishonesty, Forgery Or Alteration, Money & Securities and Outdoor Signs.

Loc. 1 - Additional/Optional Property Coverages Premises Level

Coverage	Premium
Business Income From Dependent Properties* - \$10,000	Included
Secondary Dependent Properties - Included	
Equipment Breakdown	\$82
Property Ultra Plus	\$125
Water Back-Up and Sump Overflow *	Included
Additional/Optional Property Coverages Premises Level Premium	\$207

*Base limit included in an enhancement or PAK endorsement.



**BUSINESSOWNERS
DECLARATIONS
SECTION I - PROPERTY**

Policy No: WOP5350
Policy Period:
From 05/07/2020 to 05/07/2021

Bldg. No. 1 **Year Built** 1950 **Construction** Non-Combustible **Sprinkler** No **Occupancy** Occupant

Class Code 71332 **Class Description** Barber Shops

Bldg. 1 - Property

	Limit of Insurance	Valuation	Automatic Incr. Bldg Limit	BPP-Seasonal Incr.	Premium
Building	\$225,767	Replacement Cost	2%	NA	\$718
Business Personal Property	\$8,900	Replacement Cost	NA	25%	\$48
Total Building and Business Personal Property Premium					\$766

Bldg. 1 - Additional/Optional Property Coverages Building Level

Coverage	Premium
Ordinance or Law*	Included
Utility Services - Direct Damage*	Included
Utility Services - Time Element*	Included
Total Additional/Optional Property Coverages Building Level Premium	\$0

*Base limit included in an enhancement or PAK endorsement.

Policy-Wide Additional/Optional Property Coverages

Coverage	Premium
Computer Fraud and Funds Transfer Fraud*	Included
Identity Recovery	Included
Total Policy-Wide Additional/Optional Property Coverages Premium	\$0

*Base limit included in an enhancement or PAK endorsement.



BUSINESSOWNERS DECLARATIONS

Policy No: WOP5350
Policy Period:
From 05/07/2020 to 05/07/2021

SECTION II - LIABILITY

Coverage is provided only where a premium or Limit of Insurance is shown.

LIABILITY AND MEDICAL EXPENSES COVERAGES AND LIMITS

Policy-Wide Liability Coverages	Limit Of Insurance	Advanced Premium
Liability And Medical Expenses	\$1,000,000 Per Occurrence	
Medical Expenses	\$5,000 Per Person	
Damage To Premises Rented To You	\$100,000 Any One Premise	
Other Than Products/Completed Operations Aggregate	\$2,000,000	
Products/Completed Operations Aggregate	\$2,000,000	
(This coverage does not apply to Professional Liability.)		
TOTAL ADVANCED LIABILITY PREMIUM		\$30

LIABILITY EXPOSURE BASIS (All classifications based on payroll or sales are subject to audit.)

Loc #	Bldg #	Class Code	Classification	Estimated Premium Basis
1	1	71332	Barber Shops	\$8,900 (L)

Key to premium basis: (S) Sales, (P) Payroll and (L) Limit of Insurance

ADDITIONAL LIABILITY COVERAGES

Coverages Applicable Per Policy

Coverage	Premium
Barber Shops And Hair Salons Professional Liability - 1 Barbers	\$26

TOTAL ADDITIONAL LIABILITY COVERAGES PREMIUM **\$26**



**BUSINESSOWNERS
DECLARATIONS**

Policy No: WOP5350
Policy Period:
From 05/07/2020 to 05/07/2021

ADDITIONAL INTEREST AND INSUREDS

SCHEDULE OF MORTGAGEES

LOC: 1 BLDG: 1 ADDRESS: 609 2ND ST, KENYON, MN 55946

INTEREST: MORTGAGEE

NAME: SECURITY STATE BANK OF KENYON

ADDRESS: 602 2ND ST, KENYON, MN 55946

LOAN NUMBER:

BANK NUMBER:



Policy No: WOP5350

Agent No: 660019

**POLICYHOLDER DISCLOSURE
NOTICE OF TERRORISM
INSURANCE COVERAGE**

Coverage for acts of terrorism is included in your policy. You are hereby notified that under the Terrorism Risk Insurance Act, as amended in 2015, the definition of act of terrorism has changed. As defined in Section 102(1) of the Act: The term "act of terrorism" means any act or acts that are certified by the Secretary of the Treasury, in consultation with the Secretary of Homeland Security, and the Attorney General of the United States - to be an act of terrorism; to be a violent act or an act that is dangerous to human life; property or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of certain air carriers or vessel or the premise of a United States mission; and to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion. Under your coverage, any losses resulting from certified acts of terrorism may be partially reimbursed by the United States Government under a formula established by the Terrorism Risk Insurance Act, as amended. However, your policy may contain other exclusions which might affect your coverage, such as an exclusion for nuclear events. Under the formula, the United States Government generally reimburses 85% through 2015; 84% beginning on January 1, 2016; 83% beginning on January 1, 2017; 82% beginning on January 1, 2018; 81% beginning on January 1, 2019; and 80% beginning on January 1, 2020; of covered terrorism losses exceeding the statutorily established deductible paid by the insurance company providing the coverage. The Terrorism Risk Insurance Act, as amended, contains a \$100 billion cap that limits U.S. Government reimbursement as well as insurer's liability for losses resulting from certified acts of terrorism when the amount of such losses exceeds \$100 billion in any one calendar year. If the aggregate insured losses for all insurers exceed \$100 billion, your coverage may be reduced.

The portion of your annual premium that is attributable to coverage for acts of terrorism is \$0.00, and does not include any charges for the portion of losses covered by the United States Government under the Act.

I ACKNOWLEDGE THAT I HAVE BEEN NOTIFIED THAT UNDER THE TERRORISM RISK INSURANCE ACT, AS AMENDED, ANY LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM UNDER MY POLICY COVERAGE MAY BE PARTIALLY REIMBURSED BY THE UNITED STATES GOVERNMENT AND MAY BE SUBJECT TO A \$100 BILLION CAP THAT MAY REDUCE MY COVERAGE, AND I HAVE BEEN NOTIFIED OF THE PORTION OF MY PREMIUM ATTRIBUTABLE TO SUCH COVERAGE.

Policyholder/Applicant's Signature

Print Name

Date

MINNESOTA FRAUD STATEMENT

Any person who files a claim with intent to defraud or helps commit a fraud against an insurer is guilty of a crime.



IMPORTANT NOTICE

NOTICE TO POLICYHOLDERS POTENTIAL RESTRICTIONS OF TERRORISM COVERAGE

This Notice has been prepared in conjunction with the **POTENTIAL** implementation of changes related to coverage of terrorism under your policy.

The Terrorism Risk Insurance Act established a program (Terrorism Risk Insurance Program) within the Department of the Treasury, under which the federal government shares, with the insurance industry, the risk of loss from future terrorist attacks. That Program is subject to a termination date of December 31, 2020 unless extended by the federal government. If the federal Program terminates, or is extended with certain changes prior to or during the term of your policy, then the treatment of terrorism under your policy will change. This Notice is being provided to you for the purpose of summarizing potential impact on your coverage. The summary is a brief synopsis of significant exclusionary provisions and limitations.

This Notice does not form a part of your insurance contract. The Notice is designed to alert you to coverage restrictions and to other provisions in certain terrorism endorsement(s) in this policy. If there is any conflict between this Notice and the policy (including its endorsements), the provisions of the policy (including its endorsements) apply.

Carefully read your policy, including the endorsements attached to your policy.

YOUR POLICY DURING TENURE OF THE TERRORISM RISK INSURANCE PROGRAM AS THAT PROGRAM EXISTS PURSUANT TO THE TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF 2015:

Except as described below, this policy does not contain a terrorism exclusion. However, the policy contains endorsement BP 05 23 Cap On Losses From Certified Acts Of Terrorism, under which coverage for "certified acts of terrorism" (which is more fully defined in the endorsement but involves an act of terrorism certified by the federal government to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act) is subject to a limit on our liability pursuant to the federal Terrorism Risk Insurance Act. Further, the absence of a terrorism exclusion does not create coverage for any loss, injury or damage that would otherwise be excluded under the policy, such as property losses excluded by the nuclear hazard or war exclusions or liability losses excluded by the war liability exclusion.

POTENTIAL CHANGE TO YOUR POLICY:

Endorsement BP 05 64 Conditional Exclusion Of Terrorism (Relating To Disposition Of Federal Terrorism Risk Insurance Act) is attached to your policy. Its provisions become applicable to your policy only if certain events (one or more of the them) occur. Those events include the following:

If the federal Terrorism Risk Insurance Program (TRIP) terminates with respect to the type of insurance provided under this policy. (TRIP is/was scheduled to terminate at the end of December 31, 2020 unless extended by the federal government.); or

If TRIP is extended with changes that increase insurers' statutory percentage deductible under TRIP for terrorism losses, and we are not required to make such revised coverage available to you. Our deductible is 20% of the total of our previous year's direct earned premiums; or

If TRIP is extended with changes that decrease the federal government's statutory percentage share in potential terrorism losses, and we are not required to make terrorism coverage available to you. The government's share is 80% of the terrorism losses paid by us above the deductible; or

If TRIP is extended with changes that redefine terrorism or make insurance coverage for terrorism subject to provisions or requirements that differ from those that apply to other types of events or occurrences under the policy, and we are not required to make such revised coverage available to you.

Endorsement BP 05 23 treats terrorism as follows:

Coverage for loss or damage under property coverage or injury or damage under liability coverage arising out of a terrorism incident is excluded only if one or more of the following are attributed to the incident of terrorism:

The terrorism event involves nuclear materials or results in nuclear reaction or radiation or radioactive contamination;

The terrorism event involves the release of radioactive material, and it appears that one purpose of the terrorism was to release such material;

The terrorism event is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials;

The terrorism event involves the release of pathogenic or poisonous biological or chemical materials, and it appears that one purpose of the terrorism was to release such materials;

For Property Coverage the total of all insured damage to types of property in the United States, its territories and possessions, Puerto Rico and Canada (including business interruption losses sustained by owners or occupants of damaged property) exceeds \$25 million; or

For Liability Coverage the total of all insured damage to all types of property (including business interruption losses sustained by owners or occupants of damaged property), from the incident, exceeds \$25 million or fifty or more persons sustain death or serious injury.

The Exception Covering Certain Fire Losses applies only in certain states. Refer to the schedule for the applicable states. When the Exception applies, the exclusion of terrorism does not apply to direct loss or damage by fire to covered property, with respect to affected types of insurance in affected states.

See the definition of terrorism for purposes of the terrorism exclusion.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BARBER SHOPS AND HAIR SALONS PROFESSIONAL LIABILITY

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Limits Of Liability - Professional Liability Only	
Per Occurrence Limit	\$1,000,000
Aggregate Limit	\$2,000,000
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

Section II - Liability is amended as follows:

A. For the insurance provided by this endorsement, all provisions under Paragraph **A.1. Business Liability** will also apply to other injury.

B. Paragraph **A. Coverages** also applies to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or failure to render "barber shop or hair salon services" in connection with the operation of your business as a barber shop or hair salon.

C. With respect to the coverage provided by this endorsement, Paragraph **B. Exclusions** is amended as follows:

1. Paragraph **1.b. Contractual Liability** is replaced by the following:

This insurance does not apply to:

b. "Bodily injury", "property damage", "personal and advertising injury" or other injury for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

2. The following exclusions do not apply:

- a.** Paragraph **1.j. Professional Services**;
- b.** Paragraph **1.k.(6) Damage To Property**; and
- c.** Paragraph **1.m. Damage To Your Work**.

3. The following exclusions are added:

This insurance does not apply to "bodily injury", "property damage", "personal and advertising injury" or other injury arising out of:

- a.** The violation of any statute, or governmental rule or regulation; however, this exclusion does not apply to the failure to perform a predisposition of skin test.
- b.** The rendering or failure to render any professional service, treatment, advice or instruction, except for "barber shop or hair salon services".

This exclusion applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved that which is described in Paragraph **a.** or **b.**

D. Paragraph **C. Who Is An Insured** is amended as follows:

1. Paragraph **2.a.** is replaced by the following:

2. Each of the following is also an insured:

- a.** Your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However,

none of these "employees" is an insured for:

(1) "Bodily injury", "personal and advertising injury" or other injury:

(a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), or to a co-"employee" while that co-"employee" is either in the course of his or her employment or performing duties related to the conduct of your business;

(b) To the spouse, child, parent, brother or sister of that co-"employee" as a consequence of Paragraph (1)(a) above;

(c) For which there is any obligation to share damages with or repay someone else who must pay damages of the injury described in Paragraph (1)(a) or (1)(b); or

(2) "Bodily injury", "property damage", "personal and advertising injury" or other injury arising out of his or her providing or failing to provide professional services. However, your "employees" are insureds with respect to their providing or failing to provide "barber shop or hair salon services" in connection with the operation of your business as a barber shop or hair salon.

(3) "Property damage" to property:

(a) Owned, occupied or used by; or

(b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;

you, any of your "employees", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

2. The following is added to Paragraph 2.:

e. Any operator who rents or leases from the insured booth space, chairs or any portion of your premises for the purpose of conducting "barber shop or hair salon services" and any "employee" of such operator, but only with respect to liability arising out of such services.

E. For the insurance provided by this endorsement, Paragraph **D. Liability And Medical Expenses Limits Of Insurance** is replaced by the following:

1. The Limits Of Insurance shown in the Schedule and the rules below fix the most we will pay regardless of the number of:

a. Insureds;

b. Claims made or "suits" brought; or

c. Persons or organizations making claims or bringing "suits".

2. Subject to the Aggregate Limit Of Insurance shown in the Schedule, the most we will pay for the sum of all damages because of all "bodily injury", "property damage", or all other injury arising out of any one "occurrence", or "personal and advertising injury" sustained by any one person or organization, is the per "occurrence" limit shown in the Schedule.

3. The Limits Of Insurance shown in the Schedule apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

F. For the coverage provided by this endorsement, Paragraph **F. Liability And Medical Expenses Definitions** is amended as follows:

1. The definition of "occurrence" is amended to include any act or omission arising out of the rendering of or failure to render "barber shop or hair salon services".

2. The following definition is added:

"Barber shop or hair salon services" means:

a. Haircutting, hairstyling, hair dyeing, hair trimming, hair shaving, hair conditioning, hair shampooing; or

b. Advice or instruction for the purpose of appearance or personal grooming or therapy in connection with any of the services described in a. above.

However, "barber shop or hair salon services" does not include:

a. The removal of, or the attempted removal of, hair by electrolysis;

b. Hair implanting or hair transplanting or any attempt at these; or

- c. The use of any dye or coloring to eyelashes or eyebrows except mascara or eyebrow pencils.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - COSMETIC DAMAGE TO ROOF COVERINGS AND SIDING

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Premises Number	Building Number	Covered Property	Exclusion Applies To:	
			Roof Coverings	Siding
1	1	609 2ND ST, KENYON, MN 55946	X	
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.				

Section I - Property is amended as follows:

A. With respect to the building(s) listed in the Schedule of this endorsement, the following exclusion is added to the Paragraph **B.1 - Exclusions:**

Cosmetic Loss Or Damage

1. We will not pay for "cosmetic loss or damage" caused directly or indirectly by Windstorm or Hail to:
 - a. "Roof coverings" as indicated in the Schedule.
 - b. "Siding" as indicated in the Schedule.
2. But we will cover windstorm or hail damage to that portion of the "roof covering" or "siding" that will allow the penetration of water, or result in the failure of the "roof covering" or "siding" to perform its intended function of keeping out the elements over an extended period of time.

B. The following definitions are added to Section **H. - Property Definitions:**

"Cosmetic loss or damage" means loss or damage that alters only the physical appearance but does not result in the failure to perform intended function of keeping out the elements over an extended period of time.

"Roof Covering" means the roofing material exposed to the weather, the underlayments applied for moisture protection, and all flashings required in the replacement of a "roof covering".

"Siding" means the material exposed to the weather providing exterior protection to the walls of a building or structure.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PROPERTY ULTRA PLUS

This endorsement modifies insurance provided under the following.

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Premises Number	Premises Address		
1	609 2ND ST, KENYON, MN 55946		
Coverage		Limit Of Insurance	Page
Accounts Receivable:			
On Premises		\$25,000	6
Off Premises		\$5,000	6
Brands And Labels		\$10,000	6
Business Income From Dependent Properties (Including coverage for Secondary Dependent Properties)		\$10,000	4
Claims Expense		\$10,000	4
Computer Fraud And Funds Transfer Fraud		\$5,000 Included in Endorsement BP 05 47	
Credit Card Receipts		\$2,500	6
Employee Dishonesty		\$5,000	7
Extended Business Income		90 Days	3
Fine Arts Coverage		\$10,000	4
Fire Department Service Charge		\$5,000	3

Coverage	Limit Of Insurance	Page
Fire Extinguisher Systems Recharge Expense	\$10,000	4
Forgery Or Alteration	\$5,000	3
Jewelry, Watches, Etc. - Theft Limitation	\$5,000	3
Leased Gap Coverage - Office Equipment	Up To Business Personal Property Limit	7
Lock Replacement	\$5,000	4
Money And Securities: Inside The Premises	\$25,000	7
Outside The Premises	\$5,000	7
Money Orders And Counterfeit Money	\$5,000	3
Newly Acquired Or Constructed Property: Building Coverage Extension	\$500,000	5
Business Personal Property Coverage Extension	\$250,000	5
Period Of Coverage Extension	60 Days	5
Ordinance Or Law (If Building Coverage is provided on premises): Demolition Cost And Increased Cost Of Construction Coverage For Loss To Undamaged Portion Of The Building	Included in Endorsement BP 04 46 \$25,000 Up to Building Limit Included	
Outdoor Property: Per Occurrence	\$10,000	5
Per Tree, Shrub Or Plant	\$1,000	5
Outdoor Signs	\$10,000	7
Personal Effects	\$10,000	6
Personal Property In Transit	\$10,000	6
Personal Property Off-premises	\$25,000	5
Pollutant Clean-up And Removal	\$25,000	3
Premises Boundary Redefined - Broadened To 1,000 Feet	Included	3
Reward Payment	\$10,000	4
Salesperson's Samples	\$10,000	5
Unauthorized Business Card Use	\$5,000	5
Utility Service (Provides Water, Communication & Power Supply Services): Direct Damage	\$10,000 Included in Endorsement BP 04 56	
Time Element (Includes Wastewater Removal Property Coverage)	\$10,000 Included in Endorsement BP 04 57	
Valuable Papers And Records On Premises	\$25,000	6
Off Premises	\$10,000	6
Water Back-up And Sump Overflow: Covered Property Annual Aggregate Business Income And Extra Expense Annual Aggregate	Included in Endorsement BP 04 53 \$10,000 \$5,000	
The Schedule above is a summary of the Coverages and the Limits Of Insurance provided by the Businessowners Property Ultra Plus. If higher limits are purchased, the Limit Of Insurance will be shown on the Declarations or on the endorsement referenced for the coverage.		

With respect to coverage provided by this endorsement, the provisions of **Section I - Property**, including Paragraph **D. Deductibles**, of the Businessowners Coverage Form apply, unless modified by this endorsement. The coverage provided by this endorsement applies separately to each premises shown in the Schedule above.

This Additional Coverage applies to your liability for fire department service charges:

(1) Assumed by contract or agreement prior to loss; or

(2) Required by local ordinance.

Section I - Property is amended as follows:

A. Premises Boundary Redefined - Broadened To 1,000 Feet

With respect to the coverage provided by this endorsement, any reference to the distance limitation of within 100 feet of the buildings or structures or within 100 feet of the premises described in the Declarations is amended to read within 1,000 feet of the buildings or structures or within 1,000 feet of the premises described in the Schedule.

B. Jewelry, Watches, Etc. - Theft Limitation

With respect to the coverage provided by this endorsement, Paragraph **4.c.(2) Limitations** is replaced by the following:

- (2) Jewelry, watches, watch movements, jewels, pearls, precious and semiprecious stones, bullion, gold, silver, platinum and other precious alloys or metals is limited to the Jewelry, Watches, Etc. - Theft Limitation limit shown in the Schedule. This limit does not apply to jewelry and watches worth \$100 or less per item.

C. With respect to the coverage provided by this endorsement, Paragraph 5. Additional Coverages under A. Coverages is amended as follows:

1. Fire Department Service Charge

Paragraph **c. Fire Department Service Charge** is replaced by the following:

c. Fire Department Service Charge

When the fire department is called to save or protect Covered Property from a Covered Cause of Loss, we will pay up to the Fire Department Service Charge Limit Of Insurance shown in the Schedule for service at each premises described in the Schedule, unless a different limit is shown in the Declarations. Such limit is the most we will pay for regardless of the number of responding fire departments or fire

2. Extended Business Income

The number of consecutive days for item **f.(2)(a)(ii)ii.** under **Extended Business Income** has been increased to the number of days shown on the Schedule under Extended Business Income, unless a greater number of consecutive days is shown in the Declarations.

3. Pollutant Clean-up And Removal

The last paragraph of item **h. Pollutant Clean-up And Removal** is replaced by the following:

The most we will pay for each location described in the Schedule under this Additional Coverage is the Pollutant Clean-up And Removal Limit Of Insurance shown on the Schedule for the sum of all such expenses arising out of Covered Causes of Loss occurring during each separate 12-month period of this policy.

4. Money Orders And "Counterfeit Money"

The last paragraph of item **j. Money Orders And "Counterfeit Money"** is replaced by the following:

The most we will pay for any loss under this Additional Coverage is the Money Orders And "Counterfeit Money" Limit Of Insurance shown in the Schedule.

5. Forgery Or Alteration

Paragraph **k.(4) Forgery Or Alteration** is replaced by the following:

- (4) The most we will pay for any loss, including legal expenses, under this Additional Coverage is the Forgery Or Alteration Limit Of Insurance shown in the Schedule, unless a higher Limit Of Insurance is shown in the Declarations.

The last paragraph of item **m.(1)** under **Business Income From Dependent Properties** is replaced by the following:

The most we will pay under this Additional Coverage is the Business Income From Dependent Properties Limit Of Insurance shown in the Schedule, unless a higher Limit Of Insurance is indicated in the Declarations.

7. Fire Extinguisher Systems Recharge Expense

Paragraph **o.(3)** under **Fire Extinguisher Systems Recharge Expense** is replaced by the following:

(3) The most we will pay under this Additional Coverage in any one occurrence is the Fire Extinguisher Systems Recharge Expense Limit Of Insurance shown in the Schedule.

D. With respect to the coverage provided by this endorsement, the following items are added to Paragraph **A.5. Additional Coverages**:

s. Claims Expense

We will pay for the reasonable costs you incur, as required by policy conditions, after a covered property loss. This includes the cost of taking inventory, making appraisals and preparing other data to determine the extent of your loss.

We will not pay for fees or expenses you incur from independent or public insurance adjusters or for expenses related to claims not covered by this policy.

The most we will pay for any loss under this Additional Coverage is the Claims Expense Limit Of Insurance shown in the Schedule.

t. Fine Arts Coverage

We will pay for direct loss or damage to Fine Arts, whether owned by you or others, and in your care, custody or control.

Fine arts includes, but is not limited to antiques, paintings, etchings, drawings, tapestries, sculptures and fragile property such as porcelains, china and marble.

The most we will pay for loss in any one occurrence under this Additional Coverage is the Fine Arts Limit Of Insurance shown in the Schedule at each premises listed in the Schedule. Our payment for loss of or damage

The value of fine arts will be the least of the following amounts:

- (1)** The actual cash value of that property at the time of the loss;
- (2)** The cost of reasonably restoring that property to its condition immediately before loss; or
- (3)** The cost of replacing that property with substantially identical property.

In the event of loss, the value of property will be determined as of the time of loss.

In case of loss to any part of a pair or set we will:

- (1)** Repair or replace any part to restore the pair or set to its value before the loss; or
- (2)** Pay the difference between the value of the pair or set before and after the loss.

u. Lock Replacement

We will pay the necessary expenses you incur to replace or rekey locks made necessary due to theft or unauthorized copying of keys, damage to door locks caused by covered theft loss or any other legitimate security concern caused in a covered theft loss.

This insurance does not apply to loss caused by vandalism, wear and tear, or mysterious disappearance of keys.

The most we will pay for loss or damage in any one occurrence under this Additional Coverage is the Lock Replacement Limit Of Insurance shown in the Schedule.

We will not pay for the necessary expenses until the amount of the necessary expenses exceed \$50 for each occurrence.

v. Reward Payment

We will pay for rewards to any person or persons, other than you, your officers, your partners or your employees, for information leading to the arrest and conviction of the person(s) who caused the loss covered under this policy.

The most we will pay per occurrence under this Additional Coverage, regardless of the number of persons involved in providing information, is the Reward Payment Limit Of Insurance shown in the Schedule.

The most we will pay for loss or damage under this Extension is the Newly Acquired Or Constructed Property - Business Personal Property Coverage Extension Limit Of Insurance shown in the Schedule.

w. Salesperson's Samples

We will pay for loss or damage to samples of your stock in trade and similar property of others, while such property is in the care, custody or control of your salesperson, sales agents, or yourself while acting as a salesperson and while more than 1,000 feet from the premises described in the Schedule.

The most we will pay per occurrence under this Additional Coverage is the Salesperson's Samples Limit Of Insurance shown in the Schedule.

x. Unauthorized Business Card Use

We will pay for your loss that results directly from the theft or unauthorized use of credit, debit or charge cards issued in your business name and used solely for business purposes. However, we will not pay for theft or unauthorized use of credit, debit or charge cards entrusted to others or your employees.

The most we will pay per occurrence under this Additional Coverage is the Unauthorized Business Card Use Limit Of Insurance shown on the Schedule.

E. With respect to the coverage provided by this endorsement, Paragraph **6. Coverage Extensions** under **A. Coverages** is amended as follows:

1. Newly Acquired Or Constructed Property

a. Building Coverage Extension

The last paragraph of item **a.(1) Buildings** is replaced by the following:

The most we will pay for loss or damage under this Extension is the Newly Acquired Or Constructed Property - Building Coverage Extension Limit Of Insurance shown in the Schedule.

b. Business Personal Property Coverage Extension

The last paragraph of item **a.(2) Business Personal Property** is replaced by the following:

c. Period Of Coverage Extension

The number of days for item **a.(3)(b) Period Of Coverage** has been increased to the number of days shown on the Schedule under Newly Acquired Or Constructed Property - Period Of Coverage Extension.

2. Personal Property Off-premises

Paragraph **b. Personal Property Off-premises** is replaced by the following:

b. Personal Property Off-premises

You may extend the insurance provided by this policy to apply to your Covered Property, other than "money" and "securities", "valuable papers and records", or accounts receivable, while it is at a premises you do not own, lease or operate. The most we will pay for loss or damage under this Extension is the Personal Property Off-premises Limit Of Insurance shown in the Schedule.

3. Outdoor Property

Paragraph **c. Outdoor Property** is deleted and replaced by the following:

c. Outdoor Property

You may extend the insurance provided by this policy to apply to your outdoor fences, radio and television antennas (including satellite dishes), signs (other than signs attached to buildings), trees, shrubs and plants (other than trees, shrubs or plants which are part of a vegetated roof), including debris removal expense. Loss or damage must be caused by or result from any of the following causes of loss:

- (1) Fire;
- (2) Lightning;
- (3) Explosion
- (4) Riot or Civil Commotion; or
- (5) Aircraft

Subject to all aforementioned terms and limitations of coverage, this Coverage Extension includes the expense of removing from the described premises the debris of trees, shrubs and plants which are the property of others, except in the situation in which you are a tenant and such property is owned by the landlord of the described premises.

4. Personal Effects

The last paragraph of item **d. Personal Effects** is replaced by the following:

The most we will pay for loss or damage under this Extension at each premises listed in the Schedule is the Personal Effects Limit Of Insurance shown in the Schedule.

5. Valuable Papers And Records

Paragraph **e.(3) Valuable Papers And Records** is replaced by the following:

(3) The most we will pay under this Coverage Extension for loss or damage to "valuable papers and records" in any one occurrence at the premises described in the Schedule on this endorsement is the Valuable Papers And Records On Premises Limit shown in the Schedule, unless a higher Limit Of Insurance is shown in the Declarations.

For "valuable papers and records" not at the described premises, the most we will pay is the Valuable Papers And Records Off Premises Limit shown in the Schedule.

6. Accounts Receivable

Paragraph **f.(2) Accounts Receivable** is replaced by the following:

(2) The most we will pay under this Coverage Extension for loss or damage in any one occurrence at the premises described in the Schedule on this endorsement is the Accounts Receivable On Premises Limit

For accounts receivable not at the described premises, the most we will pay is the Accounts Receivable Off Premises Limit shown in the Schedule.

F. With respect to the coverage provided by this endorsement, the following items are added to Paragraph **A.6. Coverage Extensions**:

h. Brands And Labels

If branded or labeled merchandise that is Covered Property is damaged by a Covered Cause of Loss, we may take all or part of the property at an agreed or appraised value. If so, you may:

- (1) Stamp the word salvage on the merchandise or its containers, if the stamp will not physically damage the merchandise; or
- (2) Remove the brands or labels, if doing so will not physically damage the merchandise. You must relabel the merchandise or its containers to comply with the law.

We will pay reasonable costs you incur to perform the activity described in **h.(1)** or **h.(2)** above. The most we will pay for these costs under this Coverage Extension is the Brands And Labels Limit Of Insurance shown in the Schedule.

i. Credit Card Receipts

You may extend the insurance that applies to Business Personal Property to apply to all sums due to you from the payors of credit card charge receipts, including your normal collection expenses, provided you are unable to collect from them due to direct loss or damage to your credit card receipts from a Covered Cause of Loss.

The most we will pay per occurrence for this Coverage Extension is the Credit Card Receipts Limit Of Insurance shown in the Schedule.

j. Personal Property In Transit

You may extend the insurance provided by this policy to apply to your Covered Property, other than "money" and "securities",

valuable papers and records", or accounts receivable, while it is in the course of transit. The most we will pay for loss or damage under this Extension is the Personal Property In Transit Limit Of Insurance shown in the Schedule.

- G. With respect to the coverage provided by this endorsement, the following is added to Paragraph **E.5. Property Loss Conditions - Loss Payment:**

i. **Lease Gap Coverage - Office Equipment**

Applicable to covered Business Personal Property you lease or rent from others, in the event of a covered loss to leased or rented office equipment, our limit of liability will be the greater of:

- (1) The amount due under the terms of the lease or rental agreement to which your covered Business Personal Property is subject; or
- (2) The cost to repair or replace, with property of like kind and quality.

- H. With respect to the coverage provided by this endorsement, Section **G. Optional Coverages** is amended as follows:

1. The introductory paragraph is deleted and replaced with the following:

If shown as applicable in the Schedule of this endorsement, the following Optional Coverages also apply. If higher limits are provided, they will be shown on the Declarations under the designated coverage. These coverages are subject to the terms and conditions applicable to property coverage in this policy, except as provided below:

2. **Outdoor Signs**

Paragraph **1.d. Outdoor Signs** is replaced by the following:

- d. The most we will pay for loss or damage in any one occurrence is the Limit Of Insurance for Outdoor Signs shown in the Schedule, unless a higher Limit Of Insurance is shown in the Declarations.

Paragraph **2.c. Money And Securities** is replaced by the following:

- c. The most we will pay for loss in any one occurrence is:

- (1) The Money And Securities - Inside The Premises Limit Of Insurance shown in the Schedule, unless a higher limit is shown in the Declarations, for "money" and "securities" while:

- (a) In or on the premises described in the Schedule on this endorsement; or

- (b) Within a bank or savings institution; and

- (2) The Money And Securities - Outside The Premises Limit Of Insurance shown in the Schedule, unless a higher limit is shown in the Declarations, for "money" and "securities" while anywhere else.

4. Employee Dishonesty

Paragraph **3.c. Employee Dishonesty** is replaced by the following:

- c. The most we will pay for loss or damage in any one occurrence is the Limit Of Insurance for Employee Dishonesty shown in the Schedule, unless a higher limit is shown in the Declarations.

SECTION III - COMMON POLICY PROVISIONS

- I. The following policy condition is added to **Section III - Common Policy Conditions (Applicable To Section I - Property And Section II - Liability):**

M. Insurance Under Same Coverage With Different Limits

If more than one endorsement has the same coverage, but different limits, the endorsement with the highest limit will be the most we will pay for the covered loss. The limits may not be combined to obtain a higher limit of insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EQUIPMENT BREAKDOWN COVERAGE

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

The following deductible amount will apply to each loss after all other adjustments have been made.
Deductible: \$500
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. The following is added to Paragraph A.3. Covered Causes Of Loss in Section I - Property.

Additional Coverage - Equipment Breakdown

The term Covered Cause of Loss includes the Additional Coverage Equipment Breakdown as described and limited below.

1. We will pay for direct physical damage to Covered Property that is the direct result of an "accident." As used in this Additional Coverage, "accident" means a fortuitous event that causes direct physical damage to "covered equipment." The event must be one of the following:
 - a. Mechanical breakdown, including rupture or bursting caused by centrifugal force;
 - b. Artificially generated electrical, magnetic or electromagnetic energy, including electric arcing, that damages, disturbs, disrupts or otherwise interferes with any electrical or electronic wire, device, appliance, system or network;
 - c. Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control;
 - d. Loss or damage to steam boilers, steam pipes, steam engines or steam turbines caused by or resulting from any condition or event inside such equipment; or
 - e. Loss or damage to hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment.
2. The following coverages also apply to the direct result of an "accident." These

coverages do not provide additional amounts of insurance.

a. Expediting Expenses

With respect to your damaged Covered Property, we will pay the reasonable extra cost to:

- (1) Make temporary repairs; and
- (2) Expedite permanent repairs or permanent replacement.

The most we will pay for loss or expense under this coverage is \$25,000.

b. Hazardous Substances

We will pay for the additional cost to repair or replace Covered Property because of contamination by a "hazardous substance." This includes the additional expenses to clean up or dispose of such property.

This does not include contamination of "perishable goods" by refrigerant, including but not limited to ammonia, which is addressed in 2.c.(1)(b) below. As used in this coverage, additional costs mean those beyond what would have been payable under this Equipment Breakdown Coverage had no "hazardous substance" been involved.

The most we will pay for loss, damage or expense under this coverage, including actual loss of Business Income you sustain and necessary Extra Expense you incur, is \$25,000.

c. **Spoilage**

(1) We will pay:

- (a) For physical damage to "perishable goods" due to spoilage;
- (b) For physical damage to "perishable goods" due to contamination from the release of refrigerant, including but not limited to ammonia;
- (c) Any necessary expenses you incur to reduce the amount of loss under this coverage to the extent that they do not exceed the amount of loss that otherwise would have been payable under this coverage.

- (2) If you are unable to replace the "perishable goods" before its anticipated sale, the amount of our payment will be determined on the basis of the sales price of the "perishable goods" at the time of the "accident," less discounts and expenses you otherwise would have had. Otherwise our payment will be determined in accordance with the Loss Payment condition.

The most we will pay for loss, damage or expense under this coverage is \$50,000.

d. **Data Restoration**

We will pay for your reasonable and necessary cost to research, replace and restore lost "electronic data."

The most we will pay for loss or expense under this coverage, including actual loss of Business Income you sustain and necessary Extra Expense you incur, is \$25,000.

e. **Service Interruption**

- (1) Any insurance provided for Business Income, Extra Expense or Spoilage is extended to apply to your loss, damage or expense caused by the interruption of utility services. The interruption must result from an "accident" to equipment, including overhead transmission lines, that is owned by a utility, landlord, a

landlord's utility or other supplier who provides you with any of the following services: electrical power, waste disposal, air conditioning, refrigeration, heating, natural gas, compressed air, water, steam, internet access, telecommunications services, wide area networks or data transmission. The equipment must meet the definition of "covered equipment" except that it is not Covered Property.

- (2) We will not pay for any loss of Business Income you sustain that results from the interruption of utility services during the first 24 hours following the "accident." However, if the "period of restoration" begins more than 24 hours after the time of the direct physical damage for Business Income, then that time period will apply instead of the 24 hours provided for in this paragraph.
- (3) The most we will pay in any "one accident" for loss, damage or expense under this coverage is the applicable limit for Business Income, Extra Expense or Spoilage.

f. **Business Income and Extra Expense**

Any insurance provided under this policy for Business Income or Extra Expense is extended to the coverage provided by this endorsement. The most we will pay for loss or expense under this coverage is the applicable limit for Business Income and Extra Expense.

B. Paragraph B. Exclusions in Section I - Property is amended as follows:

Equipment Breakdown Exclusions

All exclusions in **Section I - Property** apply except as modified below and to the extent that coverage is specifically provided by this Additional Coverage Equipment Breakdown.

1. The following exclusions are modified:

- a. The following is added to Exclusion **B.1.g.:**

However, if electrical "covered equipment" requires drying out because of Water as described in **g.(1)** through **g.(3)**

above, we will pay for the direct expenses of such drying out subject to the applicable Limit of Insurance and deductible for Building or Business Personal Property, whichever applies.

- b. As respects this endorsement only, the next to the last paragraph in Exclusion **B.1.h.** is deleted and replaced with the following:

However, if excluded loss or damage, as described in Paragraph (1) above results in an "accident," we will pay only for the loss, damage or expense caused by such "accident."

- c. As respects this endorsement only, the last paragraph of Exclusion **B.2.i.** is deleted and replaced with the following:

But if an excluded cause of loss that is listed in **2.i.(1)** through **(7)** results in an "accident," we will pay for the loss, damage or expense caused by that "accident."

- d. The following is added to Exclusions **B.2.m.** and **B.2.n.:**

We will also pay for direct physical loss or damage caused by an "accident."

2. The following exclusions are added:

- a. We will not pay for loss, damage or expense caused by or resulting from:

(1) A hydrostatic, pneumatic or gas pressure test of any boiler or pressure vessel, or an electrical insulation breakdown test of any type of electrical equipment; or

(2) Any of the following:

(a) Defect, programming error, programming limitation, computer virus, malicious code, loss of data, loss of access, loss of use, loss of functionality or other condition within or involving "electronic data" of any kind; or

(b) Misalignment, miscalibration, tripping off-line, or any condition which can be corrected by resetting, tightening, adjusting or

cleaning, or by the performance of maintenance.

However, if an "accident" results, we will pay for the resulting loss, damage or expense caused by that "accident."

- b. With respect to Service Interruption coverage, we will also not pay for an "accident" caused by or resulting from: fire; lightning; windstorm or hail; explosion (except as specifically provided in **A.1.c.** above); smoke; aircraft or vehicles; riot or civil commotion; vandalism; sprinkler leakage; falling objects; weight of snow, ice or sleet; freezing; collapse; flood or earth movement.

- c. With respect to Business Income, Extra Expense and Service Interruption coverages, we will also not pay for any increase in loss resulting from an agreement between you and your customer or supplier.

- d. We will not pay for any loss or damage to animals.

C. The following is added to Paragraph C. Limits Of Insurance in Section I - Property:

The most we will pay for loss, damage or expense under this endorsement arising from any "one accident" is the applicable Limit of Insurance for **Section I - Property** in the Declarations. Coverage provided under this endorsement does not provide an additional amount of insurance.

- D. With respect to the coverage provided under this endorsement, the following conditions are added to Paragraph F. Property General Conditions in Section I - Property.**

1. Suspension

Whenever "covered equipment" is found to be in, or exposed to, a dangerous condition, any of our representatives may immediately suspend the insurance against loss from an "accident" to that "covered equipment." This can be done by mailing or delivering a written notice of suspension to:

- a. Your last known address; or
- b. The address where the "covered equipment" is located.

Once suspended in this way, your insurance can be reinstated only by an endorsement for that "covered equipment." If we suspend your insurance, you will get a pro rata refund of premium for that "covered equipment" for the period of suspension. But the suspension will be effective even if we have not yet made or offered a refund.

2. Jurisdictional Inspections

If any property that is "covered equipment" under this endorsement requires inspection to comply with state or municipal boiler and pressure vessel regulations, we agree to perform such inspection on your behalf. We do not warrant that conditions are safe or healthful.

3. Environmental, Safety and Efficiency Improvements

If "covered equipment" requires replacement due to an "accident," we will pay your additional cost to replace with equipment that is better for the environment, safer or more efficient than the equipment being replaced.

However, we will not pay more than 125% of what the cost would have been to replace with like kind and quality. This condition does not increase any of the applicable limits. This condition does not apply to any property to which Actual Cash Value applies.

E. Paragraph **G.4. Optional Coverages - Equipment Breakdown Protection Coverage** in **Section I - Property** is deleted.

F. The following definitions are added to Paragraph **H. Property Definitions** in **Section I - Property**:

1. "Covered equipment"

a. "Covered equipment" means Covered Property:

- (1) That generates, transmits or utilizes energy, including electronic communications and data processing equipment; or
- (2) Which, during normal usage, operates under vacuum or pressure, other than the weight of its contents.

b. None of the following is "covered equipment":

(1) Structure, foundation, cabinet, compartment or air supported structure or building;

(2) Insulating or refractory material;

(3) Sewer piping, buried vessels or piping, or piping forming a part of a sprinkler or fire suppression system;

(4) Water piping other than boiler feedwater piping, boiler condensate return piping or water piping forming a part of a refrigerating or air conditioning system;

(5) "Vehicle" or any equipment mounted on a "vehicle";

(6) Satellite, spacecraft or any equipment mounted on a satellite or spacecraft;

(7) Dragline, excavation or construction equipment; or

(8) Equipment manufactured by you for sale.

2. "Hazardous substance" means any substance that is hazardous to health or has been declared to be hazardous to health by a governmental agency.

3. "One accident" means: If an initial "accident" causes other "accidents," all will be considered "one accident." All "accidents" that are the result of the same event will be considered "one accident".

4. "Perishable goods" means personal property maintained under controlled conditions for its preservation, and susceptible to loss or damage if the controlled conditions change.

5. "Vehicle" means, as respects this endorsement only, any machine or apparatus that is used for transportation or moves under its own power. "Vehicle" includes, but is not limited to, car, truck, bus, trailer, train, aircraft, watercraft, forklift, bulldozer, tractor or harvester.

However, any property that is stationary, permanently installed at a covered location and that receives electrical power from an external power source will not be considered a "vehicle."

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ORDINANCE OR LAW COVERAGE

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Premises Number	Building Number	Coverage 1 (Check if applies)	Coverage 2 Limit Of Insurance	Coverage 3 Limit Of Insurance	Coverages 2 And 3 Combined Limit Of Insurance*
			See Schedule	BP 04 46 SC	

Business Income And Extra Expense Optional Coverage (Enter Yes or No): No

Number Of Hours' Waiting Period For Period Of Restoration Applicable To Business Income And Extra Expense Optional Coverage:

*Do **not** enter a Combined Limit of Insurance if individual Limits of Insurance are selected for Coverages 2 and 3, or if one of these Coverages is not applicable.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Section I - Property is amended as follows:

A. Each Coverage - Coverage 1, Coverage 2 and Coverage 3 - is provided under this endorsement only if that Coverage(s) is chosen by entry in the above Schedule and then only with respect to the building identified for the Coverage(s) in the Schedule.

B. Application Of Coverage(s)

The Coverage(s) provided by this endorsement applies only if both **B.1.** and **B.2.** are satisfied and are then subject to the qualifications set forth in **B.3.**

1. The ordinance or law:

a. Regulates the demolition, construction or repair of buildings, or establishes zoning or land use requirements at the described premises; and

b. Is in force at the time of loss.

But coverage under this endorsement applies only in response to the minimum requirements of the ordinance or law. Losses and costs incurred in complying with recommended actions or standards that exceed actual

requirements are not covered under this endorsement.

2. The building sustains direct physical damage:

a. That is covered under this policy and as a result of such damage, you are required to comply with the ordinance or law; or

b. That is covered under this policy and direct physical damage that is not covered under this policy, and as a result of the building damage in its entirety, you are required to comply with the ordinance or law.

c. But if the damage is not covered under this policy, and such damage is the subject of the ordinance or law, then there is no coverage under this endorsement even if the building has also sustained covered direct physical damage.

3. In the situation described in B.2.b. above, we will not pay the full amount of loss otherwise payable under the terms of Coverages 1, 2 and/or 3 of this endorsement. Instead, we will pay a proportion of such loss; meaning the proportion that the covered direct physical damage bears to the total direct physical damage.

However, if the covered direct physical damage alone would have resulted in a requirement to comply with the ordinance or law, then we will pay the full amount of loss otherwise payable under terms of Coverages 1, 2 and/or 3 of this endorsement.

C. We will not pay under Coverage 1, 2, or 3 of this endorsement for:

1. Enforcement of or compliance with any ordinance or law which requires the demolition, repair, replacement, reconstruction, remodeling or remediation of property due to contamination by "pollutants" or due to the presence, growth, proliferation, spread of any activity of "fungi", wet rot or dry rot; or
2. The costs associated with the enforcement of or compliance any ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants", "fungi", wet rot or dry rot.

D. Coverage

1. Coverage 1 - Coverage For Loss To The Undamaged Portion Of The Building

With respect to the building that has sustained covered direct physical damage, we will pay under Coverage 1 for the loss in value of the undamaged portion of the building as a consequence of a requirement to comply with an ordinance or law that requires demolition of undamaged parts of the same building. Coverage 1 is included within the Limit Of Insurance shown in the Declarations as applicable to the covered building. Coverage 1 does not increase the Limit of Insurance.

2. Coverage 2 - Demolition Cost Coverage

With respect to the building that has sustained covered direct physical damage, we will pay the cost to demolish and clear the site of undamaged parts of the same building, as a consequence of a requirement to comply with an ordinance or law that requires demolition of such undamaged property.

Paragraph E.5.d. **Loss Payment** Property Loss Condition does not apply to **Demolition Cost Coverage**.

With respect to the building that has sustained covered direct physical damage, we will pay the increased cost to:

- a. Repair or reconstruct damaged portions of that building; and/or
- b. Reconstruct or remodel undamaged portions of that building, whether or not demolition is required;

when the increased cost is a consequence of a requirement to comply with the minimum standards of the ordinance or law.

However:

- a. This coverage applies only if the restored or remodeled property is intended for similar occupancy as the current property, unless such occupancy is not permitted by zoning or land use ordinance or law.
- b. We will not pay for the increased cost of construction if the building is not repaired, reconstructed or remodeled.

Paragraph E.5.d. **Loss Payment** Property Loss Condition does not apply to the **Increased Cost Of Construction Coverage**.

E. Loss Payment

1. All following loss payment Provisions E.2. through E.5. are subject to the apportionment procedure set forth in Section B.3. of this endorsement:
2. When there is a loss in value of an undamaged portion of a building to which Coverage 1 applies, the loss payment for that building, including damaged and undamaged portions, will be determined as follows:
 - a. If the property is repaired or replaced on the same or another premises, we will not pay more than the lesser of:
 - (1) The amount you actually spend to repair, rebuild or reconstruct the building, but not for more than the amount it would cost to restore the building on the same premises and to the same height, floor area, style and comparable quality of the original property insured; or
 - (2) The Limit Of Insurance shown in the Declarations as applicable to the covered building.

b. If the property is not repaired or replaced, we will not pay more than the lesser of:

- (1) The actual cash value of the building at the time of loss; or
- (2) The Limit Of Insurance shown in the Declarations as applicable to the covered building.

3. Unless Paragraph E.5. applies, loss payment under Coverage 2 - Demolition Cost Coverage will be determined as follows:

We will not pay more than the lesser of the following:

- a. The amount you actually spend to demolish and clear the site of the described premises; or
- b. The applicable Limit Of Insurance shown for Coverage 2 in the Schedule above.

4. Unless Paragraph E.5. applies, loss payment under Coverage 3 - Increased Cost Of Construction Coverage will be determined as follows:

a. We will not pay under Coverage 3:

- (1) Until the property is actually repaired or replaced, at the same or another premises; and
- (2) Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage, not to exceed two years. We may extend this period in writing during the two years.

b. If the building is repaired or replaced at the same premises, or if you elect to rebuild at another premises, the most we will pay under Coverage 3 is the lesser of:

- (1) The increased cost of construction at the same premises; or
- (2) The applicable Limit Of Insurance shown for Coverage 3 in the Schedule above.

c. If the ordinance or law requires relocation to another premises, the most we will pay under Coverage 3 is the lesser of:

- (1) The increased cost of construction at the new premises; or
- (2) The applicable Limit Of Insurance shown for Coverage 3 in the Schedule above.

5. If a Combined Limit Of Insurance is shown for Coverages 2 and 3 in the Schedule above, Paragraphs E.2. and E.3. of this endorsement do not apply with respect to the building property that is subject to the Combined Limit, and the following loss payment provisions apply instead:

The most we will pay, for the total of all covered losses for Demolition Cost and Increased Cost Of Construction, is the Combined Limit Of Insurance shown for Coverages 2 and 3 in the Schedule above. Subject to this Combined Limit of Insurance, the following loss payment provisions apply:

a. For Demolition Cost, we will not pay more than the amount you actually spend to demolish and clear the site of the described premises.

b. With respect to the Increased Cost Of Construction:

(1) We will not pay for the increased cost of construction:

(a) Until the property is actually repaired or replaced, at the same or another premises; and

(b) Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage, not to exceed two years. We may extend this period in writing during the two years.

(2) If the building is repaired or replaced at the same premises, or if you elect to rebuild at another premises, the most we will pay for the increased cost of construction is the increased cost of construction at the same premises.

(3) If the ordinance or law requires relocation to another premises, the most we will pay for the increased cost of construction is the increased cost of construction at the new premises.

F. The terms of this endorsement apply separately to each building to which this endorsement applies.

G. Under this endorsement, we will not pay for loss due to any ordinance or law that:

1. You were required to comply with before the loss, even if the building was undamaged; and
2. You failed to comply with.

- H. Example of Proportionate Loss Payment for Ordinance or Law Coverage Losses (procedure as set forth in Section B.3. of this endorsement).

Assume:

- * Wind is a Covered Cause of Loss. Flood is an excluded Cause of Loss;
- * The building has a value of \$200,000;
- * Total direct physical damage to building: \$100,000;
- * The ordinance or law in this jurisdiction is enforced when building damage equals or exceeds 50% of the building's value;
- * Portion of direct physical damage that is covered (caused by wind): \$30,000;
- * Portion of direct physical damage that is not covered (caused by flood): \$70,000; and
- * Loss under Ordinance or Law Coverage 3 of this endorsement: \$60,000.

Step 1: Determine the proportion that the covered direct physical damage bears to the total direct physical damage.

$\$30,000 \text{ divided by } \$100,000 = .30$

Step 2: Apply that proportion to the Ordinance or Law loss.

$\$60,000 \times .30 = \$18,000$

In this example, the most we will pay under this endorsement for the Coverage 3 loss is \$18,000, subject to the applicable Limit of Insurance and any other applicable provisions.

NOTE: The same procedure applies to losses under Coverages 1 and 2 of this endorsement.

- I. If shown as applicable in the Schedule of this endorsement, the following applies:

Business Income And Extra Expense Optional Coverage

1. If a Covered Cause of Loss occurs to property at the premises described in the Declarations, coverage is extended to include the amount of actual and necessary loss you sustain during the increased period of suspension of your "operations" caused by or resulting from a requirement to comply with any ordinance or law that:

- a. Regulates the construction or repair of any property;

- b. Requires the tearing down of parts of any property not damaged by a Covered Cause of Loss; and

- c. Is in force at the time of loss.

However, coverage is not extended under this endorsement to include loss caused by or resulting from the enforcement of or compliance with any ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

2. Paragraph H.9. Period Of Restoration Definition is replaced by the following:

9. "Period of restoration" means the period of time that:

- a. Begins:

- (1) 72 hours after the time of direct physical loss or damage caused by or resulting from any Covered Cause of Loss at the described premises, unless a lesser number of hours is shown in the Schedule of this endorsement; or

- (2) Immediately after the time of the direct physical loss or damage for Extra Expense Coverage caused by or resulting from any Covered Cause of Loss at the described premises; and

- b. Ends on the earlier of:

- (1) The date when the property at the described premises should be repaired, rebuilt or replaced with reasonable speed and similar quality; or

- (2) The date when business is resumed at a new permanent location.

"Period of restoration" includes any increased period required to repair or reconstruct the property to comply with the minimum standards of any ordinance or law, in force at the time of loss, that regulates the construction or repair, or requires the tearing down of any property.

The expiration date of this policy will not cut short the "period of restoration".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ORDINANCE OR LAW COVERAGE SCHEDULE

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Premises Number	Building Number	Coverage 1 (Check if applies)	Coverage 2 Limit Of Insurance	Coverage 3 Limit Of Insurance	Coverages 2 And 3 Combined Limit Of Insurance
1	1	X			\$25,000

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WATER BACK-UP AND SUMP OVERFLOW

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Premises Number	Covered Property Annual Aggregate Limit Of Insurance	Business Income And Extra Expense Annual Aggregate Limit Of Insurance
	See Schedule BP 04 53 SC	
Information required to complete this Schedule, if not shown above, will be shown on Declarations.		

A. We will pay for direct physical loss or damage to Covered Property, covered under Section I - Property, caused by or resulting from:

1. Water or waterborne material which backs up through or overflows or is otherwise discharged from a sewer or drain; or
2. Water or waterborne material which overflows or is otherwise discharged from a sump, sump pump or related equipment, even if the overflow or discharge results from mechanical breakdown of a sump pump or its related equipment.

However, with respect to Paragraph **A.2.**, we will not pay the cost of repairing or replacing a sump pump or its related equipment in the event of mechanical breakdown.

B. The coverage described in Paragraph **A.** of this endorsement does not apply to loss or damage resulting from:

1. An insured's failure to keep a sump pump or its related equipment in proper working condition;
2. An insured's failure to perform the routine maintenance or repair necessary to keep a sewer or drain free from obstructions; or
3. Sump pump failure which is caused by or results from failure of power, unless this policy

is endorsed to cover power failure affecting the described premises.

C. The most we will pay for the coverage provided under this endorsement for all direct physical loss or damage to Covered Property is the Covered Property Annual Aggregate Limit of Insurance. That limit is \$5,000 per location, unless a different Covered Property Annual Aggregate Limit of Insurance is indicated in the Schedule of this endorsement.

The applicable Covered Property Annual Aggregate Limit of Insurance is the most we will pay under this endorsement for the total of all direct physical loss or damage sustained in any one policy year, regardless of the number of occurrences that cause or result in loss or damage to Covered Property. If loss payment for the first such occurrence does not exhaust the applicable Limit Of Insurance, then the balance of that Limit is available for subsequent loss or damage sustained in, but not after, that policy year. With respect to an occurrence which begins in one policy year and continues or results in additional loss or damage in a subsequent policy year(s), all loss or damage is deemed to be sustained in the policy year in which the occurrence began.

D. The following provisions apply to **Section I - Property** and supersede any provisions to the contrary:

The most we will pay under:

1. Paragraph **A.5.f.** Business Income Additional Coverage for all loss of Business Income you sustain due to the necessary suspension of your "operations" caused by direct physical loss or damage to Covered Property as described in Paragraph **A.** of this endorsement; and
2. Paragraph **A.5.g.** Extra Expense Additional Coverage for all necessary Extra Expense you incur and that you would not have incurred if there had been no direct physical loss or damage to Covered Property as described in Paragraph **A.** of this endorsement;

is the Business Income And Extra Expense Annual Aggregate Limit Of Insurance. That limit is \$5,000 per location, unless a different Business Income And Extra Expense Annual Aggregate Limit Of Insurance is shown in the Schedule.

The applicable Business Income And Extra Expense Annual Aggregate Limit of Insurance is the most we will pay under this endorsement for the total of all loss of Business Income you sustain and Extra Expense you incur in any one policy year, regardless of the number of occurrences that cause or result in loss or damage to Covered Property as described in Paragraph **A.** of this endorsement. If loss payment during an earlier "period of restoration" in the policy year does not exhaust the applicable Limit Of Insurance, then the balance of that limit is available for loss of Business Income you sustain or Extra Expense you incur during a subsequent "period of restoration" beginning in, but not after, that policy year. With respect to a "period of restoration" which begins in one policy year and continues in a subsequent policy year(s), all loss of Business Income you sustain or Extra Expense you incur is deemed to be sustained or incurred in the policy year in which the "period of restoration" began.

E. With respect to the coverage provided under this endorsement, the **Water** Exclusion in **Section I - Property** is replaced by the following:

Water

1. Flood, surface water, waves (including tidal wave and tsunami), tides, tidal water, overflow of any body of water, or spray from any of these, all whether or not driven by wind (including storm surge);
2. Mudslide or mudflow;
3. Water under the ground surface pressing on, or flowing or seeping through:
 - a. Foundations, walls, floors or paved surfaces;
 - b. Basements, whether paved or not; or
 - c. Doors, windows or other openings; or
4. Waterborne material carried or otherwise moved by any of the water referred to in Paragraph **1.** or **3.**, or material carried or otherwise moved by mudslide or mudflow.

This exclusion applies regardless of whether any of the above, in Paragraphs **1.** through **4.**, is caused by an act of nature or is otherwise caused. An example of a situation to which this exclusion applies is the situation where a dam, levee, seawall or other boundary or containment system fails in whole or in part, for any reason, to contain the water.

But if any of the above, in Paragraphs **1.** through **4.**, results in fire, explosion or sprinkler leakage, we will pay for the loss or damage caused by that fire, explosion or sprinkler leakage.

- F. For the purposes of this endorsement, the term drain includes a roof drain and related fixtures.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WATER BACK-UP AND SUMP OVERFLOW SCHEDULE

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Premises Number	Covered Property Annual Aggregate Limit Of Insurance	Business Income And Extra Expense Annual Aggregate Limit Of Insurance
1	\$10,000	\$5,000

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

UTILITY SERVICES - DIRECT DAMAGE

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Premises Number	Building Number	Utility Services Limit Of Insurance	Water Supply Property ("X" If Applies)	Communication Supply Property	Power Supply Property
		See Schedule BP 04 56 SC			
Covered Property:					
Covered Property:					
Covered Property:					
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.					

The coverage provided by this endorsement is subject to the provisions of Section I - Property, including Paragraph D. Deductibles, except as provided below.

A. The following is added to Paragraph A. Coverage:

We will pay for loss of or damage to Covered Property described in the Schedule, caused by the interruption of service to the described premises. The interruption must result from direct physical loss or damage by a Covered Cause of Loss to the property described in Paragraph C. of this endorsement if such property is indicated by an "X" in the Schedule.

B. Exception

Coverage under this endorsement for loss or damage to Covered Property does not apply to loss or damage to "electronic data", including destruction or corruption of "electronic data".

C. Utility Services

1. Water Supply Property, meaning the following types of property supplying water to the described premises:
 - a. Pumping stations; and
 - b. Water mains.

2. **Communication Supply Property**, meaning property supplying communication services, including telephone, radio, microwave or television services to the described premises, such as:
- a. Communication transmission lines, including optic fiber transmission lines;
 - b. Coaxial cables; and
 - c. Microwave radio relays except satellites.
- It does not include overhead transmission lines unless indicated in the Schedule.
3. **Power Supply Services**, meaning the following types of property supplying electricity, steam or gas to the described premises:
- a. Utility generating plants;
 - b. Switching stations;
 - c. Substations;
 - d. Transformers; and
 - e. Transmission lines.
- It does not include overhead transmission lines unless indicated in the Schedule.
- D. As used in this endorsement, the term transmission lines includes all lines which serve to transmit communication service or power, including lines which may be identified as distribution lines.
- E. Paragraph C. **Limits Of Insurance** is replaced by the following:
- C. Limits Of Insurance**
- If a Utility Services Limit Of Insurance is shown in the Schedule, such limit is part of, not in addition to, the Limit Of Insurance stated in the Declarations as applicable to the Covered Property.
- If no Limit Of Insurance is shown for Utility Services, coverage under this endorsement is subject to the applicable Limit Of Insurance on the Covered Property as shown in the Declarations. But this Utility Services Endorsement does not increase the applicable Limit Of Insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

UTILITY SERVICES - DIRECT DAMAGE SCHEDULE

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Premises Number	Building Number	Utility Services Limit Of Insurance	Water Supply Property ("X" If Applies)	Communication Supply Property	Power Supply Property
				Overhead Transmission Lines Enter Either "Included" Or "Not Included" (If Applicable)	
1	1	See Covered Property Below	X	Not Included	Not Included
Covered Property: 609 2ND ST, KENYON, MN 55946 BUILDING LIMIT - \$10,000 BUSINESS PERSONAL PROPERTY LIMIT - See applicable limit on Declarations					

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

UTILITY SERVICES - TIME ELEMENT

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

			Water Supply		Communication Supply Property	Power Supply Property
Premises Number	Building Number	Utility Services Limit Of Insurance	Property ("X" If Applies)	Wastewater Removal Property	Overhead Transmission Lines Enter Either "Included" Or "Not Included" (If Applicable)	
		See Schedule BP 04 57 SC				

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The coverage provided by this endorsement is subject to the provisions of Section I - Property, except as provided below.

A. The following is added to Paragraph A. Coverage:

We will pay for loss of Business Income or Extra Expense at the described premises caused by the interruption of service to the described premises. The interruption must result from direct physical loss or damage by a Covered Cause of Loss to the property described in Paragraph C. of this endorsement if such property is indicated by an "X" in the Schedule.

B. Exception

Coverage under this endorsement does not apply to Business Income loss or Extra Expense related to interruption in utility service which causes loss or damage to "electronic data", including destruction or corruption of "electronic data".

C. Utility Services

1. Water Supply Property, meaning the following types of property supplying water to the described premises:

- a. Pumping stations; and
- b. Water mains.

2. Wastewater Removal Property, meaning a utility system for removing wastewater and

sewage from the described premises, other than a system designed primarily for draining storm water, The utility property includes sewer mains, pumping stations and similar equipment for moving the effluent to a holding, treatment or disposal facility, and includes such facilities.

Coverage under this endorsement does not apply to interruption in service caused by or resulting from a discharge of water or sewage due to heavy rainfall or flooding.

3. Communication Supply Property, meaning property supplying communication services, including telephone, radio, microwave or television services to the described premises, such as:

- a. Communication transmission lines, including optic fiber transmission lines;
- b. Coaxial cables; and
- c. Microwave radio relays except satellites.

It does not include overhead transmission lines unless indicated in the Schedule.

4. Power Supply Property, meaning the following types of property supplying electricity, steam or gas to the described premises:

- a. Utility generating plants;

b. Switching stations;

c. Substations;

d. Transformers; and

e. Transmission lines.

It does not include overhead transmission lines unless indicated in the Schedule.

D. As used in this endorsement, the term transmission lines includes all lines which serve to transmit communication service or power, including lines which may be identified as distribution lines.

E. Paragraph C. Limits Of Insurance is replaced by the following:

C. Limits Of Insurance

The most we will pay for loss or damage in any one occurrence is the Limit Of Insurance shown in the Schedule as applicable to the Covered Property.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

UTILITY SERVICES - TIME ELEMENT SCHEDULE

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE						
Premises Number	Building Number	Utility Services Limit Of Insurance	Water Supply Property ("X" If Applies)	Wastewater Removal Property	Communication Supply Property	Power Supply Property
					Overhead Transmission Lines Enter Either "Included" Or "Not Included" (If Applicable)	
1	1	\$10,000	X	X	Not Included	Not Included

THIS ENDORSEMENT IS ATTACHED TO AND MADE PART OF YOUR POLICY IN RESPONSE TO THE DISCLOSURE REQUIREMENTS OF THE TERRORISM RISK INSURANCE ACT. THIS ENDORSEMENT DOES NOT GRANT ANY COVERAGE OR CHANGE THE TERMS AND CONDITIONS OF ANY COVERAGE UNDER THE POLICY.

DISCLOSURE PURSUANT TO

TERRORISM RISK INSURANCE ACT

SCHEDULE

SCHEDULE - PART 1			
Terrorism Premium (Certified Acts)		\$0	
Additional Information, if any, concerning the terrorism premium:			
SCHEDULE - PART II			
Federal share of terrorism losses		80 %	Year 2020
(Refer to Paragraph B. in this endorsement.)			
Federal share of terrorism losses		%	Year 2021
(Refer to Paragraph B. in this endorsement.)			
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.			

A. Disclosure Of Premium

In accordance with the federal Terrorism Risk Insurance Act, we are required to provide you with a notice disclosing the portion of your premium, if any, attributable to coverage for terrorist acts certified under the Terrorism Risk Insurance Act. The portion of your premium attributable to such coverage is shown in the Schedule of this endorsement or in the policy Declarations.

B. Disclosure Of Federal Participation In Payment Of Terrorism Losses

The United States Government, Department of the Treasury, will pay a share of terrorism losses insured under the federal program. The federal share equals a percentage (as shown in Part II of the Schedule of this endorsement or in the policy Declarations) of that portion of the amount of such insured losses that exceeds the applicable insurer retention. However, if aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a calendar year, the Treasury shall not make any payment for any portion of the amount of such losses that exceeds \$100 billion.

C. Cap On Insurer Participation In Payment Of Terrorism Losses

If aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a calendar year and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMPUTER FRAUD AND FUNDS TRANSFER FRAUD

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Coverage	Limit Of Insurance
Computer Fraud And Funds Transfer Fraud Coverage	\$5,000
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

Section I - Property is amended as follows:

A. With respect to the coverage provided by this endorsement, Paragraph **A.4. Limitations** is amended as follows:

Subparagraph **a.(4)** does not apply.

B. The following is added to Paragraph **A.5. Additional Coverages**:

Computer Fraud And Funds Transfer Fraud

(1) The Computer Fraud And Funds Transfer Fraud Coverage limit shown in the Schedule of this endorsement is the most we will pay for loss of and damage to "money", "securities" and "other property" following and directly related to the use of any computer to fraudulently cause a transfer of that property from inside the described premises, bank or savings institution:

(a) To a person (other than a messenger) outside those premises; or

(b) To a place outside those premises.

(2) The Computer Fraud And Funds Transfer Fraud Coverage limit shown in the Schedule of this endorsement is the most we will pay for loss of "money" and "securities" resulting directly from a "fraudulent instruction" directing a financial institution to transfer, pay or deliver "money" and "securities" from your "transfer account".

C. With respect to the coverage provided by this endorsement, Paragraph **B. Exclusions** is amended as follows:

1. Paragraph **2.g. False Pretense** does not apply.

2. The following exclusion is added:

We will not pay for loss or damages caused by or resulting from the use or purported use of credit, debit, charge, access, convenience, identification, stored-value or other cards or the information contained on such cards.

D. The following exclusion is added to Paragraph under **G.2. Money And Securities** Optional Coverages:

(4) Or damage to "money" and "securities" following and directly related to the use of any computer to fraudulently cause a transfer of that property from inside the described premises, bank or savings institution:

(a) To a person (other than a messenger) outside those premises; or

(b) To a place outside those premises.

E. The following are added to Paragraph **H. Property Definitions**:

15. "Employee"

a. "Employee" means:

(1) Any natural person:

(a) While in your service or for 30 days after termination of service;

(b) Who you compensate directly by salary, wages or commissions; and

(c) Who you have the right to direct and control while performing services for you;

- (2) Any natural person who is furnished temporarily to you:
- (a) To substitute for a permanent "employee", as defined in Paragraph (1), who is on leave; or
 - (b) To meet seasonal or short-term work load conditions;
- while that person is subject to your direction and control and performing services for you, excluding, however, any such person while having care and custody of property outside the premises;
- (3) Any natural person who is leased to you under a written agreement between you and a labor leasing firm, to perform duties related to the conduct of your business, but does not mean a temporary employee as defined in Paragraph (2) above;
- (4) Any natural person who is:
- (a) A trustee, officer, employee, administrator or manager, except an administrator or manager who is an independent contractor, of any "employee benefit plan(s)" insured under this policy; and
 - (b) Your director or trustee while that person is handling "funds" or "other property" of any "employee benefit plan(s)" insured under this policy;
- (5) Any natural person who is a former "employee", director, partner, "member", "manager", representative or trustee retained as a consultant while performing services for you; or
- (6) Any natural person who is a guest student or intern pursuing studies or duties, excluding, however, any such person while having care and custody of property outside the premises.
- b. "Employee" does not mean:
- (1) Any agent, broker, factor, commission merchant, consignee, independent contractor or representative of the same general character; or
- (2) Any manager, director or trustee except while performing acts coming within the scope of the usual duties of an "employee".
16. "Fraudulent instruction" means:
- a. An electronic, telegraphic, cable, teletype, telefacsimile or telephone instruction which purports to have been transmitted by you, but which was in fact fraudulently transmitted by someone else without your knowledge or consent;
 - b. A written instruction (other than those described in Paragraph A.5.k.) issued by you, which was forged or altered by someone other than you without your knowledge or consent or which purports to have been issued by you, but was in fact fraudulently issued without your knowledge or consent; or
 - c. An electronic, telegraphic, cable, teletype, telefacsimile, telephone or written instruction initially received by you which purports to have been transmitted by an "employee" but which was in fact fraudulently transmitted by someone else without your or the "employee's" knowledge or consent.
17. "Other property" means any tangible property other than "money" and "securities" that has intrinsic value but does not include any property excluded under this policy.
18. "Transfer account" means an account maintained by you at a financial institution from which you can initiate the transfer, payment or delivery of "money" and "securities":
- a. By means of electronic, telegraphic, cable, teletype, telefacsimile or telephone instructions communicated directly through an electronic funds transfer system; or
 - b. By means of written instructions (other than those described in Paragraph A.5.k.) establishing the conditions under which such transfers are to be initiated by such financial institution through an electronic funds transfer system.

POLICY NUMBER:

BUSINESSOWNERS
BP 05 64 01 15

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CONDITIONAL EXCLUSION OF TERRORISM (RELATING TO DISPOSITION OF FEDERAL TERRORISM RISK INSURANCE ACT)

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

The **Exception Covering Certain Fire Losses** (Paragraph B.2.) applies to property located in the following state(s):

Iowa
Illinois
Wisconsin

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section I – Property and Section II – Liability are amended as follows:

1. Applicability Of The Provisions Of This Endorsement

a. The provisions of this endorsement become applicable commencing on the date when any one or more of the following first occurs. But if your policy (meaning the policy period in which this endorsement applies) begins after such date, then the provisions of this endorsement become applicable on the date your policy begins.

(1) The federal Terrorism Risk Insurance Program ("Program"), established by the Terrorism Risk Insurance Act, has terminated with respect to the type of insurance provided under this Coverage Form; or

(2) A renewal, extension or replacement of the Program has become effective without a requirement to make terrorism coverage available to you and with revisions that:

(a) Increase our statutory percentage deductible under the Program for terrorism losses. (That deductible determines the amount of all certified terrorism losses we must pay in a calendar year, before the federal government shares in subsequent payment of certified terrorism losses.); or

(b) Decrease the federal government's statutory percentage share in potential terrorism losses above such deductible; or

(c) **Redefine terrorism or make insurance coverage for terrorism subject to provisions or requirements that differ from those that apply to other types of events or occurrences under this policy.**

b. If the provisions of this endorsement become applicable, such provisions:

(1) Supersede any terrorism endorsement already endorsed to this policy that addresses "certified acts of terrorism" and/or "other acts of terrorism", but only with respect to loss or injury or damage from an incident(s) of terrorism (however defined) that occurs on or after the date when the provisions of this endorsement become applicable; and

(2) Remain applicable unless we notify you of changes in these provisions, in response to federal law.

c. If the provisions of this endorsement do NOT become applicable, any terrorism endorsement already endorsed to this policy, that addresses "certified acts of terrorism" and/or "other acts of terrorism", will continue in effect unless we notify you of changes to that endorsement in response to federal law.

2. The following definition is added and applies under this endorsement wherever the term terrorism is enclosed in quotation marks.

"Terrorism" means activities against persons, organizations or property of any nature:

a. That involve the following or preparation for the following:

(1) Use or threat of force or violence; or

(2) Commission or threat of a dangerous act; or

(3) Commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and

b. When one or both of the following applies:

(1) The effect is to intimidate or coerce a government or the civilian population or any segment thereof, or to disrupt any segment of the economy; or

(2) It appears that the intent is to intimidate or coerce a government, or to further political, ideological, religious, social or economic objectives or to express (or express opposition to) a philosophy or ideology.

B. Section I – Property is amended as follows:

1. The following exclusion is added:

EXCLUSION OF TERRORISM

We will not pay for loss or damage caused directly or indirectly by "terrorism", including action in hindering or defending against an actual or expected incident of "terrorism". Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss. But this exclusion applies only when one or more of the following are attributed to an incident of "terrorism":

a. The "terrorism" is carried out by means of the dispersal or application of radioactive material, or through the use of a nuclear weapon or device that involves or produces a nuclear reaction, nuclear radiation or radioactive contamination; or

b. Radioactive material is released, and it appears that one purpose of the "terrorism" was to release such material; or

c. The "terrorism" is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or

d. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the "terrorism" was to release such materials; or

e. The total of insured damage to all types of property in the United States, its territories and possessions, Puerto Rico and Canada exceeds \$25,000,000. In determining whether the \$25,000,000 threshold is exceeded, we will include all insured damage sustained by property of all persons and entities affected by the "terrorism" and business interruption losses sustained by owners or occupants of the damaged property. For the purpose of this provision, insured damage means damage that is covered by any insurance plus damage that would be covered by any insurance but for the application of any terrorism exclusions. Multiple incidents of "terrorism" which occur within a 72-hour period and appear to be carried out in concert or to have a related purpose or common leadership will be deemed to be one incident, for the purpose of determining whether the threshold is exceeded.

With respect to this Item **1.e.**, the immediately preceding paragraph describes the threshold used to measure the magnitude of an incident of "terrorism" and the circumstances in which the threshold will apply, for the purpose of determining whether this Exclusion will apply to that incident. When the Exclusion applies to an incident of "terrorism", there is no coverage under this Coverage Form.

2. Exception Covering Certain Fire Losses

The following exception to the Exclusion Of Terrorism applies only if indicated and as indicated in the Schedule of this endorsement.

If "terrorism" results in fire, we will pay for the loss or damage caused by that fire, subject to all applicable policy provisions including the Limit of Insurance on the affected property. Such coverage for fire applies only to direct loss or damage by fire to Covered Property. Therefore, for example, the coverage does not apply to insurance provided under Business Income and/or Extra Expense coverages or endorsements that apply to those coverages.

3. Application Of Other Exclusions

When the Exclusion Of Terrorism applies in accordance with the terms of Paragraph **1.a.** or **1.b.**, such exclusion applies without regard to the Nuclear Hazard Exclusion in this Coverage Form.

C. Section II – Liability is amended as follows:

1. The following definition is added and applies under this endorsement wherever the phrase any injury or damage, is enclosed in quotation marks:

"Any injury or damage" means any injury or damage covered under this Coverage Form or any applicable endorsement, and includes but is not limited to "bodily injury", "property damage" or "personal and advertising injury", as may be defined under this Coverage Form or any applicable endorsement.

2. The following exclusion is added:

EXCLUSION OF TERRORISM

We will not pay for "any injury or damage" caused directly or indirectly by "terrorism", including action in hindering or defending against an actual or expected incident of "terrorism". "Any injury or damage" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to such injury or damage. **But this exclusion applies only when one or more of the following are attributed to an incident of "terrorism":**

- a. The "terrorism" is carried out by means of the dispersal or application of radioactive material, or through the use of a nuclear weapon or device that involves or produces a nuclear reaction, nuclear radiation or radioactive contamination; or
- b. Radioactive material is released, and it appears that one purpose of the "terrorism" was to release such material; or
- c. The "terrorism" is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
- d. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the "terrorism" was to release such materials; or
- e. The total of insured damage to all types of property exceeds \$25,000,000. In determining whether the \$25,000,000 threshold is exceeded, we will include all insured damage sustained by property of all persons and entities affected by the "terrorism" and business interruption losses sustained by owners or occupants of the damaged property. For the purpose of this provision, insured damage means damage that is covered by any insurance plus damage that would be covered by any insurance but for the application of any terrorism exclusions; or

f. Fifty or more persons sustain death or serious physical injury. For the purposes of this provision, serious physical injury means:

- (1) Physical injury that involves a substantial risk of death; or
- (2) Protracted and obvious physical disfigurement; or
- (3) Protracted loss of or impairment of the function of a bodily member or organ.

Multiple incidents of "terrorism" which occur within a 72-hour period and appear to be carried out in concert or to have a related purpose or common leadership will be deemed to be one incident, for the purpose of determining whether the thresholds in Paragraph 2.e. or 2.f. are exceeded.

With respect to this Exclusion, Paragraphs 2.e. and 2.f. describe the threshold used to measure the magnitude of an incident of "terrorism" and the circumstances in which the threshold will apply, for the purpose of determining whether this Exclusion will apply to that incident. When the Exclusion applies to an incident of "terrorism", there is no coverage under this Coverage Form.

D. The following provision is added to Section I – Property and Section II – Liability:

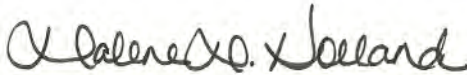
The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for loss or injury or damage that is otherwise excluded under this Policy.

WADENA INSURANCE COMPANY

AMENDATORY ENDORSEMENT

1. Wadena Insurance Company located at 7825 Mills Civic Parkway, West Des Moines, Iowa, is a stock company domiciled under the laws of the state of Iowa.
2. The following is made a part of the policy:

In Witness Whereof, we have caused this policy to be executed and attested, and, if required by state law, this policy shall not be valid unless countersigned by our authorized representative.



Secretary



President

BUSINESSOWNERS
BO 01 25 03 15

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

MINNESOTA CHANGES

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM INFORMATION SECURITY PROTECTION ENDORSEMENT

- A. The following is added to Paragraph E.3. Duties In The Event Of Loss Or Damage** Property Loss Conditions in **Section I – Property** and Paragraph **E.2. Duties In The Event Of Occurrence, Offense, Claim Or Suit** Liability And Medical Expenses General Conditions in **Section II – Liability** of the Businessowners Coverage Form and similar conditions in any endorsement attached to this Policy:
- The requirement to notify us can be satisfied by notifying our agent. Notice can be by any means of communication.
- B. Section I – Property** is amended as follows:
1. The following is added to Paragraph **A.3. Covered Causes Of Loss**:

We insure for all loss or damage caused by fire or any damage caused by lightning.
 2. Paragraph **A.5.I.(8)** of the **Increased Cost Of Construction** Additional Coverages is replaced by the following:
 - (8) This Additional Coverage is not subject to the terms of the Ordinance Or Law Exclusion, to the extent that such exclusion would conflict with the provisions of this Additional Coverage. The coverage afforded under this Additional Coverage does not reduce coverage provided under exceptions to the Ordinance Or Law Exclusion as presented in this Endorsement.
 3. Paragraph **A.5.I.(9)** of the **Increased Cost Of Construction** Additional Coverages does not apply.
 4. Paragraph **B.1.a. Ordinance Or Law** Exclusions is replaced by the following:
 - a. Ordinance Or Law**
 - (1) The enforcement of or compliance with any ordinance or law:
 - (a) Regulating the construction, use or repair of any property; or
 - (b) Requiring the tearing down of any property, including the cost of removing its debris.
- (2) This exclusion, Ordinance Or Law, applies whether the loss results from:
 - (a) An ordinance or law that is enforced even if the property has not been damaged; or
 - (b) The increased costs incurred to comply with an ordinance or law in the course of construction, repair, renovation, remodeling or demolition of property, or removal of its debris, following a physical loss to that property.
 - (3) But if loss or damage is solely a result of one or more Covered Causes of Loss, we will pay for your compliance with such ordinance or law, subject to all other provisions of this Policy, including those listed below, as follows:
 - (a) In the event of a partial loss, if the building is insured on a replacement cost basis, we will pay for your compliance but only with respect to the damaged portion of the building.
 - (b) In the event of a total or constructive total loss, we will pay for your compliance with respect to the entire building.
 - (c) We will not pay under this provision for the costs associated with the enforcement of or compliance with any ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

- (d) Any valuation provision (including Replacement Cost) or loss payment condition which excludes the increased cost attributable to an ordinance or law is hereby revised to include such cost to the extent that coverage is provided above in this item,
4. But in no event will we pay more than the applicable Limit of Insurance.

- 5.** The following is added to Paragraph **D.1. Deductibles** and applies with respect to any deductible applicable to the Businessowners Property Coverage, including a deductible provided by endorsement for a particular cause of loss or coverage:

The Deductible will not apply to total loss of a building.

- 6.** Paragraph **E.3. Duties In The Event Of Loss Or Damage** Property Loss Conditions is amended as follows:

- a.** Paragraph **a.(3)** is deleted.
b. Paragraphs **a.(6)** and **a.(7)** are replaced by the following:

- (6)** As often as we reasonably require:

- (a)** Permit us to inspect the property. Also, permit us to take samples of damaged and undamaged property for inspection, testing and analysis;
(b) Provide us with records and documents reasonably related to the loss, or certified copies if the originals are lost, and permit us to make copies.

- (7)** Send us, within 60 days after our request, a signed, sworn proof of loss containing the following information we require to investigate the claim:

- (a)** A description of how and when the loss or damage occurred;
(b) The value of the property, except in the case of a total loss of an insured building;
(c) The interest of the insured and all others in the property; and
(d) Other insurance which may cover the loss or damage.

We will supply you with the necessary forms.

- c.** The following is added to Paragraph **a.:**

- (10)** Send to us, within a reasonable time after our request, the following:

- (a)** Changes in title or occupancy of the property during the term of the Policy; and
(b) Specifications of damaged buildings and detailed repair estimates.

- d.** Paragraph **b.** is replaced by the following:

- b.** After we inform an insured:

- (1)** Of the right to counsel; and
(2) That an insured's answers may be used against the insured in later civil or criminal proceedings;

we may examine any insured under oath, while not in the presence of any other insured and at such times as may be reasonably required, about any matter relating to this insurance or the claim. In the event of an examination, an insured's answers must be signed.

- 7.** Paragraph **E.5. Loss Payment** Property Loss Conditions is amended as follows:

- a.** Paragraph **g.** is replaced by the following:

- g.** Provided you have complied with all the terms of this Policy, we will pay for covered loss or damage within five business days after:

- (1)** We have received the proof of loss; and
(2) We have reached an agreement with you; or, in the event we use an independent claims adjuster, we have received the agreement and you have satisfied the conditions of the agreement, if any, or an appraisal award has been made.

- b.** The following paragraph is added and supersedes any provision to the contrary:

i. Replacement Cost – Business Personal Property

- (1)** We will not pay more for loss or damage on a replacement cost basis than the least of:

- (a)** The Limit of Insurance applicable to the lost or damaged property;

- (b)** The applicable Special Limit of Insurance shown in **i.(2)(a)**, **i.(2)(b)**, **i.(2)(c)** and **i.(2)(d)** below;

(c) The cost to replace, on the same premises, the lost or damaged property with other property of comparable material and quality and used for the same purpose; or

(d) The amount you actually spend that is necessary to repair or replace the lost or damaged property.

(2) The following Special Limits of Insurance apply to any category of property listed below, unless higher Special Limits Of Insurance are shown in the Declarations. These Special Limits are part of, not in addition to, any Limit Of Insurance shown in the Declarations, and apply in excess of any applicable deductible. The Special Limit of Insurance shown for any category listed below is the most we will pay for loss or damage to all property in that category in any one occurrence.

(a) \$1,000 on used or secondhand merchandise held in storage or for sale;

(b) \$1,000 on property of others;

(c) \$1,000 on household contents, except personal property in apartments or rooms furnished by you as landlord;

(d) \$5,000 on manuscripts, works of art, antiques or rare articles, including etchings, pictures, statuary, marbles, bronzes, porcelains and bric-a-brac.

With respect to the articles described in (a), (b), (c) and (d) above, in no event will we pay you less than we would have paid you if this Endorsement were not attached to the Policy.

c. The following paragraph is added:

j. We agree that, in the event of a total loss, the Limit of Insurance (or the limit shown in the total loss schedule of values) for a building which is Covered Property represents its value.

8. Paragraphs a. and d. under **F.2. Mortgageholders** Property General Conditions are replaced by the following:

a. The term "mortgageholder" includes trustees and contract-for-deed vendors.

d. If we deny your claim because of your acts or because you have failed to comply with the terms of this Policy, the mortgageholder will still have the right to receive loss payment if the mortgageholder:

(1) Pays premium due under the Policy at our request if you have failed to do so;

(2) Submits a signed, sworn proof of loss within 60 days after receiving notice from us of your failure to do so.

All of the terms of this Policy will then apply directly to the mortgageholder.

9. The following paragraph is added to Paragraph **F.2.:**

h. We will notify the mortgageholder of changes to this Policy that result in a substantial reduction of coverage to the mortgaged property.

C. Section II – Liability is amended as follows:

1. Paragraph **A.1.f. Coverage Extension – Supplementary Payments** is replaced by the following:

f. Coverage Extension – Supplementary Payments

(1) We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

(a) All expenses we incur.

(b) Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

(c) The cost of bonds to release attachments, but only for bond amounts within the applicable Limit of Insurance. We do not have to furnish these bonds.

(d) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work

- (e) All costs taxed against the insured in the "suit".
- (f) Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable Limit of Insurance, we will not pay any prejudgment interest based on that period of time after the offer.
- (g) All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable Limit of Insurance.

These payments will not reduce the Limits of Insurance.

- (2) If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:
 - (a) The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
 - (b) This insurance applies to such liability assumed by the insured;
 - (c) The obligation to defend, or the cost of the defense of, that indemnitee has also been assumed by the insured in the same "insured contract";
 - (d) The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
 - (e) The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
 - (f) The indemnitee:
 - (i) Agrees in writing to:
 - i. Cooperate with us in the investigation, settlement or defense of the "suit";

- ii. Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
 - iii. Notify any other insurer whose coverage is available to the indemnitee; and
 - iv. Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
- (ii) Provides us with written authorization to:
 - i. Obtain records and other information related to the "suit"; and
 - ii. Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

- (a) We have used up the applicable Limit of Insurance in the payment of judgments or settlements; or
- (b) The conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

- 2. Paragraph b. under Exclusion B.1. **Applicable To Business Liability Coverage** is replaced by the following:

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or

- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement.

3. Paragraph **E.1. Bankruptcy** Liability And Medical Expenses General Conditions is replaced by the following:

1. Bankruptcy

Bankruptcy, insolvency or dissolution of the insured or of the insured's estate will not relieve us of our obligations under this Policy and in case an execution against the insured on a final judgment is returned unsatisfied, then such judgment creditor shall have a right of action on this Policy against the company to the same extent that the insured would have, had the insured paid the final judgment.

D. Section III – Common Policy Conditions is amended as follows:

1. Paragraph **A. Cancellation** is replaced by the following:

A. Cancellation

1. The first Named Insured shown in the Declarations may cancel this Policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this Policy, subject to the provisions of **3.** below, by first-class mailing, or by delivery, of a written notice of cancellation to the first Named Insured and any agent, to their last mailing addresses known to us. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
3. If this Policy has been in effect for:
 - a. Fewer than 90 days and is a new policy, we may cancel for any reason by giving notice at least 10 days before the effective date of cancellation.
 - b. 90 days or more, or if it is a renewal of a policy we issued, we may cancel only for one or more of the following reasons:

- (1) Nonpayment of premium;

- (2) Misrepresentation or fraud made by you or with your knowledge in obtaining the Policy or in pursuing a claim under the Policy;
- (3) An act or omission by you that substantially increases or changes the risk insured;
- (4) Refusal by you to eliminate known conditions that increase the potential for loss after notification by us that the condition must be removed;
- (5) Substantial change in the risk assumed, except to the extent that we should reasonably have foreseen the change or contemplated the risk in writing the contract;
- (6) Loss of reinsurance by us which provided coverage to us for a significant amount of the underlying risk insured. Any notice of cancellation pursuant to this item shall advise the policyholder that he or she has 10 days from the date of receipt of the notice to appeal the cancellation to the commissioner of commerce and that the commissioner will render a decision as to whether the cancellation is justified because of the loss of reinsurance within 30 business days after receipt of the appeal;
- (7) A determination by the commissioner that the continuation of the Policy could place us in violation of the Minnesota insurance laws; or
- (8) Nonpayment of dues to an association or organization, other than an insurance association or organization, where payment of dues is a prerequisite to obtaining or continuing such insurance. This provision for cancellation for failure to pay dues shall not be applicable to persons who are retired at 62 years of age or older or who are disabled according to social security standards.

Under this Paragraph **A.3.b.**, we will give notice at least:

- (1) 10 days before the effective date of cancellation, if we cancel for nonpayment of premium. The cancellation notice shall contain the information regarding the amount of premium due and the due date, and shall state the effect of nonpayment by the due date. Cancellation shall not be effective if payment of the amount due is made prior to the effective date of cancellation; or
 - (2) 60 days before the effective date, if we cancel for a reason described in **3.b.(2)** through **(8)** above. The notice of cancellation will state the reason for cancellation.
4. If this Policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
 5. If this Policy includes liquor liability coverage with respect to "injury" arising out of the selling, serving or furnishing of alcoholic beverages, then the following provisions shall apply:

If this Policy is cancelled by us, we will notify, in writing, the governmental authority in the State of Minnesota that issued the current liquor license to the Named Insured that the Policy is being cancelled at the same time that the cancellation notice is sent to the first Named Insured.

If the first Named Insured cancels, we will notify, in writing, the governmental authority in the State of Minnesota that issued the current liquor license to the Named Insured that the Policy is being cancelled upon receiving the written notice of cancellation from the first Named Insured.
 6. Unless otherwise specifically required, proof of mailing of any notice shall be sufficient proof of notice.

2. Paragraph **C. Concealment, Misrepresentation Or Fraud** is replaced by the following with respect to loss or damage caused by fire:

C. Concealment, Misrepresentation Or Fraud

We do not provide coverage to the insured who has:

1. Before a loss, willfully; or
2. After a loss, willfully and with intent to defraud;

concealed or misrepresented any material fact or circumstances concerning:

- a. This Policy;
- b. The Covered Property;
- c. That insured's interest in the Covered Property; or
- d. A claim under this Policy.

3. Paragraph **C. Concealment, Misrepresentation Or Fraud** is replaced by the following with respect to loss or damage caused by a Covered Cause of Loss other than fire:

C. Concealment, Misrepresentation Or Fraud

We will not pay for any loss or damage if any insured has:

1. Before a loss, willfully; or
2. After a loss, willfully and with intent to defraud;

concealed or misrepresented any material fact or circumstances concerning:

- a. This Policy;
- b. The Covered Property;
- c. That insured's interest in the Covered Property; or
- d. A claim under this Policy.

4. Paragraph **D. Examination Of Your Books And Records** is replaced by the following:

D. Examination Of Your Books And Records

We may examine and audit your books and records as they relate to this Policy at any time during the policy period and up to one year afterward.

5. Paragraph **K. Transfer Of Rights Of Recovery Against Others To Us** is replaced by the following:

K. Transfer Of Rights Of Recovery Against Others To Us

1. Applicable to Businessowners Property Coverage:

If any person or organization to or for whom we make payment under this Policy has rights to recover damages from another, those rights are transferred to us to the extent of our payment. That person or organization must do everything necessary to secure our rights and must do nothing after loss to impair them. However, our rights do not apply against:

- a. An insured; or
- b. Any person or organization insured under another policy which was issued by us and responds to the same loss;

provided the loss was not intentionally caused by such insureds.

2. You may waive your rights against another party in writing:

- a. Prior to a loss to your Covered Property.
- b. After a loss to your Covered Property only if, at the time of loss, that party is one of the following:

- (1) Someone insured by this insurance, unless the loss was caused intentionally by such insured;

- (2) A business firm:

- (a) Owned or controlled by you; or
- (b) That owns or controls you; or

- (3) Your tenant.

You may also accept the usual bills of lading or shipping receipts limiting the liability of carriers.

This will not restrict your insurance.

3. Applicable to Businessowners Liability Coverage:

If the insured has rights to recover all or part of any payment we have made under this Policy, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

Our rights do not apply against any person or organization insured under this or any other policy we issue with respect to the same "occurrence", provided the "occurrence" was not intentionally caused by such insureds.

6. The following is added:

M. Nonrenewal

If we decide not to renew this Policy, we may do so by giving the first Named Insured and any agent written notice of our intent not to renew at least 60 days before the expiration date of this Policy. Such notice will be delivered or mailed by first-class mail to their last mailing addresses known to us.

We need not mail or deliver this notice if you have:

- 1. Insured elsewhere;
- 2. Accepted replacement coverage; or
- 3. Agreed not to renew this Policy.

Unless otherwise specifically required, proof of mailing of any notice shall be sufficient proof of notice.

E. The following changes apply only to Information Security Protection Endorsement **BP 15 07** if it is attached to this Policy:

1. Paragraph **(2)** of Insuring Agreement **d. Security Breach Liability** is replaced by the following:

(2) We will pay for "defense expenses" as a result of a "claim" in the form of a "regulatory proceeding" first made against the insured during the "policy period" or during the applicable Extended Reporting Period, in response to a "wrongful act" or a series of "interrelated wrongful acts" covered under Paragraph **d.(1)**.

2. The following is added to the **Limits Of Insurance** Provision under Paragraph **K.:**

In addition to the Information Security Protection Aggregate Limit of Insurance, we will pay prejudgment interest awarded against the insured on the part of the judgment we pay. If we make an offer to pay the Information Security Protection Aggregate Limit of Insurance, we will not pay any prejudgment interest based on that period of time after the offer.

3. The **Duties In The Event Of Claim Or Loss** Condition under Paragraph **M.** is replaced by the following:

Duties In The Event Of Claim Or Loss

In the event of either an occurrence or offense that may result in a "claim" against an insured or a "loss" or situation that may result in a "loss" covered under this Endorsement, you must see to it that we or our agent is notified orally or in writing as soon as practicable, but not to exceed 30 days, and cooperate with us in the investigation and settlement of the "claim" or "loss" as set forth below:

a. For "claims" covered under Insuring Agreements **d. Security Breach Liability** and **g. Web Site Publishing Liability**, you must:

- (1)** Immediately record the specifics of the "claim" and the date received;
- (2)** Immediately send us or our agent copies of any demands, notices, summonses or legal papers received in connection with the "claim";
- (3)** Authorize us to obtain records and other information; and

(4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to you because of an occurrence or offense to which this Endorsement may also apply.

You will not, except at your own cost, voluntarily make a payment, assume any obligation or incur any expense without our consent.

A "claim" brought by a person or organization seeking damages will be deemed to have been made when the "claim" is received by an insured.

b. Under Insuring Agreement **a. Replacement Or Restoration Of Electronic Data** and Insuring Agreement **e. Extortion Threats**, you must:

- (1)** Notify local law enforcement officials;
- (2)** Submit to examination under oath at our request and give us a signed statement of your answers; and
- (3)** Give us a detailed, sworn proof of loss within 120 days.
- (4)** In addition, under Insuring Agreement **e. Extortion Threats**, you must:
 - (a)** Determine that the "extortion threat" has actually occurred;
 - (b)** Make every reasonable effort to immediately notify an associate and the security firm, if any, before making any "ransom payment" based upon the "extortion threat";
 - (c)** With respect to "ransomware", make a reasonable effort to access your "electronic data" from backup; and
 - (d)** Approve any "ransom payment" based upon the "extortion threat".

4. Paragraph **d.** of the definition of "loss" in Paragraph **V.** is replaced by the following:

d. With respect to Insuring Agreements **d. Security Breach Liability** and **g. Web Site Publishing Liability**:

Compensatory damages, settlement amounts and costs awarded pursuant to judgments or settlements. "Loss" does not include:

- (1)** Civil or criminal fines or penalties imposed by law;

- (2) Punitive or exemplary damages;
- (3) The multiplied portion of multiplied damages;
- (4) Taxes;
- (5) Royalties;
- (6) The amount of any disgorged profits; or
- (7) Matters that are uninsurable pursuant to law.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - ASBESTOS OR ASBESTOS PRODUCTS

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

A. The following exclusion is added to Paragraph **B. Exclusions** in **Section II - Liability**:

B. Exclusions

This insurance does not apply to:

ASBESTOS OR ASBESTOS PRODUCTS

1. "Bodily injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, or ingestion of, asbestos, asbestos fibers, asbestos dust or any product containing asbestos.
2. "Property damage" arising, in whole or in part, out of the actual, alleged, threatened or suspected contact with, exposure to, existence of, or presence of, asbestos, asbestos fibers, asbestos dust or any product containing asbestos.

3. "Personal and advertising injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, asbestos, asbestos fibers, asbestos dust or any product containing asbestos.
4. Any loss, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to or assessing the effects of, asbestos, asbestos fibers, asbestos dust, or any product that contains asbestos, by any insured or by any other person or entity.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LEAD LIABILITY EXCLUSION

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

The following exclusion is added to Paragraph **B.1. Exclusions - Applicable to Business Liability Coverage** in **Section II - Liability**:

This insurance does not apply to:

t. Lead Liability

- (1) Actual or alleged "bodily injury" arising out of the ingestion, inhalation, or absorption of lead in any form;
- (2) Actual or alleged "property damage" or "personal and advertising injury" arising out of any form of lead;

- (3) Any loss, cost or expense arising out of any request, demand or order to test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, or in any way respond to or assess the effects of lead; or

- (4) Any loss, cost or expense arising from any claim or "suit" by or on behalf of any governmental authority for damages resulting from the testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to or assessing the effects of lead.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - PUNITIVE DAMAGES

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

The following is added to **Section II - Liability B. Exclusions** and supersedes any provision to the contrary:

This insurance does not apply to punitive or exemplary damages.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**IDENTITY RECOVERY COVERAGE
IDENTITY THEFT CASE MANAGEMENT SERVICE AND EXPENSE REIMBURSEMENT**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

The following is added as an Additional Coverage under Section 1 - Property.

IDENTITY RECOVERY COVERAGE

We will provide the Case Management Service and Expense Reimbursement Coverage indicated below if all of the following requirements are met:

1. There has been an identity theft involving the personal identity of an identity recovery insured under this policy; and
2. Such identity theft is first discovered by the identity recovery insured during the policy period for which this Identity Recovery Coverage is applicable; and
3. Such identity theft is reported to us within 60 days after it is first discovered by the identity recovery insured.

If all three of the requirements listed above have been met, then we will provide the following to the identity recovery insured:

1. Case Management Service

Services of an identity recovery case manager as needed to respond to the identity theft; and

2. Expense Reimbursement

Reimbursement of necessary and reasonable identity recovery expenses incurred as a direct result of the identity theft.

This coverage is additional insurance.

EXCLUSIONS

The following additional exclusions apply to this coverage:

We do not cover loss or expense arising from any of the following:

1. The theft of a professional or business identity.

2. Any fraudulent, dishonest or criminal act by an "identity recovery insured" or any person aiding or abetting an "identity recovery insured", or by any authorized representative of an "identity recovery insured", whether acting alone or in collusion with others. However, this exclusion shall not apply to the interests of an identity recovery insured who has no knowledge of or involvement in such fraud, dishonesty or criminal act.

3. An identity theft that is not reported in writing to the police.

LIMITS

Case Management Service is available as needed for any one identity theft for up to 12 consecutive months from the inception of the service. Expenses we incur to provide Case Management Service do not reduce the amount of limit available for Expense Reimbursement Coverage.

Expense Reimbursement Coverage is subject to a limit of \$15,000 annual aggregate per identity recovery insured. Regardless of the number of claims, this limit is the most we will pay for the total of all loss or expense arising out of all identity thefts to any one identity recovery insured which are first discovered by the identity recovery insured during a 12-month period starting with the beginning of the present annual policy period. If an identity theft is first discovered in one policy period and continues into other policy periods, all loss and expense arising from such identity theft will be subject to the aggregate limit applicable to the policy period when the identity theft was first discovered.

Legal costs as provided under item d. of the definition of identity recovery expenses are part of, and not in addition to, the Expense Reimbursement Coverage limit.

Item e. (Lost Wages) and item f. (Child and Elder Care Expenses) of the definition of identity recovery expenses are jointly subject to a sublimit of \$5,000. This sublimit is part of, and not in addition to, the Expense Reimbursement Coverage limit. Coverage is

limited to wages lost and expenses incurred within 12 months after the first discovery of the identity theft by the identity recovery insured.

Item g. (Mental Health Counseling) of the definition of identity recovery expenses is subject to a sublimit of \$1,000. This sublimit is part of, and not in addition to, the Expense Reimbursement Coverage limit. Coverage is limited to counseling that takes place within 12 months after the first discovery of the identity theft by the identity recovery insured.

Item h. (Miscellaneous Unnamed Costs) of the definition of identity recovery expenses is subject to a sublimit of \$1,000. This sublimit is part of, and not in addition to, the Expenses Reimbursement Coverage limit. Coverage is limited to costs incurred within 12 months after the first discovery of the identity theft by the identity recovery insured.

DEDUCTIBLE

Case Management Service is not subject to a deductible.

Expense Reimbursement Coverage is subject to a deductible of \$100. Any one identity recovery insured shall be responsible for only one deductible under this Identity Recovery Coverage during any one policy period.

No other deductible applies to the Identity Recovery Coverage.

CONDITIONS

The following additional conditions apply to this coverage:

A. Help Line

For assistance, the identity recovery insured should call the **Identity Recovery Help Line** at **1-866-221-3470**.

The **Identity Recovery Help Line** can provide the identity recovery insured with:

1. Information and advice for how to respond to a possible identity theft; and
2. Instructions for how to submit a service request for Case Management Service and/or a claim form for Expense Reimbursement Coverage.

In some cases, we may provide Case Management services at our expense to an identity recovery insured prior to a determination that a covered identity theft has occurred. Our provision of such services is not an admission of liability under the policy. We reserve the right to deny further coverage or service if, after investigation, we determine that a covered identity theft has not occurred.

As respects Expense Reimbursement Coverage, the identity recovery insured must send to us, within 60 days after our request, receipts, bills or other records that support his or her claim for "identity recovery expenses."

B. Services

The following conditions apply as respects any services provided by us or our designees to any identity recovery insured under this endorsement:

1. Our ability to provide helpful services in the event of an identity theft depends on the cooperation, permission and assistance of the identity recovery insured.
2. All services may not be available or applicable to all individuals. For example, identity recovery insureds who are minors or foreign nationals may not have credit records that can be provided or monitored. Service in Canada will be different from service in the United States and Puerto Rico in accordance with local conditions.
3. We do not warrant or guarantee that our services will end or eliminate all problems associated with an identity theft or prevent future identity thefts.

DEFINITIONS

With respect to the provisions of this endorsement only, the following definitions are added:

1. **"Identity Recovery Case Manager"** means one or more individuals assigned by us to assist an identity recovery insured with communications we deem necessary for re-establishing the integrity of the personal identity of the identity recovery insured. This includes, with the permission and cooperation of the identity recovery insured, written and telephone communications with law enforcement authorities, governmental agencies, credit agencies and individual creditors and businesses.

2. "Identity Recovery Expenses" means the following when they are reasonable and necessary expenses that are incurred as a direct result of an identity theft:
- a. Costs for re-filing applications for loans, grants or other credit instruments that are rejected solely as a result of an identity theft.
 - b. Costs for notarizing affidavits or other similar documents, long distance telephone calls and postage solely as a result of your efforts to report an identity theft or amend or rectify records as to your true name or identity as a result of an identity theft.
 - c. Costs for credit reports from established credit bureaus.
 - d. Fees and expenses for an attorney approved by us for the following:
 - (1) The defense of any civil suit brought against an identity recovery insured.
 - (2) The removal of any civil judgment wrongfully entered against an identity recovery insured.
 - (3) Legal assistance for an identity recovery insured at an audit or hearing by a governmental agency.
 - (4) Legal assistance in challenging the accuracy of the identity recovery insured's consumer credit report.
 - (5) The defense of any criminal charges brought against an identity recovery insured arising from the actions of a third party using the personal identity of the identity recovery insured.
 - e. Actual lost wages of the identity recovery insured for time reasonably and necessarily taken away from work and away from the work premises. Time away from work includes partial or whole work days. Actual lost wages may include payment for vacation days, discretionary days, floating holidays and paid personal days. Actual lost wages does not include sick days or any loss arising from time taken away from self employment. Necessary time off does not include time off to do tasks that could reasonably have been done during non-working hours.
 - f. Actual costs for supervision of children or elderly or infirm relatives or dependants of the identity recovery insured during time reasonably and necessarily taken away from such supervision. Such care must be provided by a professional care provider who is not a relative of the identity recovery insured.
 - g. Actual costs for counseling from a licensed mental health professional. Such care must be provided by a professional care provider who is not a relative of the identity recovery insured.
 - h. Any other reasonable costs necessarily incurred by an identity recovery insured as a direct result of the identity theft.
 - (1) Such costs include:
 - (a) Costs by the identity recovery insured to recover control over his or her personal identity.
 - (b) Deductibles or service fees from financial institutions.
 - (2) Such costs do not include:
 - (a) Costs to avoid, prevent or detect identity theft or other loss.
 - (b) Money lost or stolen.
 - (c) Costs that are restricted or excluded elsewhere in this endorsement or policy.
3. Identity Recovery Insured means the following:
- a. When the entity insured under this policy is a sole proprietorship, the identity recovery insured is the individual person who is the sole proprietor of the insured entity.
 - b. When the entity insured under this policy is a partnership, the identity recovery insureds are the current partners.
 - c. When the entity insured under this policy is a corporation or other organization, the identity recovery insureds are all individuals having an ownership position of 20% or more of the insured entity. However, if and only if there is no one who has such an ownership position, then the identity recovery insured shall be:
 - (1) The chief executive of the insured entity; or

An identity recovery insured must always be an individual person. The entity insured under this policy is not an identity recovery insured.

- 4. Identity Theft** means the fraudulent use of the social security number or other method of identifying an identity recovery insured. This includes fraudulently using the personal identity of an identity recovery insured to establish credit accounts, secure loans, enter into contracts or commit crimes.

Identity theft does not include the fraudulent use of a business name, d/b/a or any other method of identifying a business activity.

All other provisions of this policy apply.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – UNMANNED AIRCRAFT

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

Section II – Liability is amended as follows:

A. Exclusion 1.g. under Paragraph **B. Exclusions** is replaced by the following:

This insurance does not apply to:

g. Aircraft, Auto or Watercraft

(1) Unmanned Aircraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft". Use includes operation and "loading or unloading".

This Paragraph **g.(1)** applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft".

(2) Aircraft (Other Than Unmanned Aircraft), Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft (other than "unmanned aircraft"), "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This Paragraph **g.(2)** applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft (other than "unmanned aircraft"), "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This Paragraph **g.(2)** does not apply to:

- (a)** A watercraft while ashore on premises you own or rent;
- (b)** A watercraft you do not own that is:
 - (i)** Less than 51 feet long; and
 - (ii)** Not being used to carry persons or property for a charge;
- (c)** Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (d)** Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or
- (e)** "Bodily injury" or "property damage" arising out of:
 - (i)** The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or
 - (ii)** The operation of any of the following machinery or equipment:
 - i.** Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
 - ii.** Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lightning and well servicing equipment.

- B.** The following exclusion is added to paragraph **1.p.** under Paragraph **B. Exclusions:**

This insurance does not apply to:

p. Personal And Advertising Injury

"Personal and advertising injury" arising out of the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft". Use includes operations and "loading or unloading".

This exclusion applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the offense which caused the "personal and advertising injury" involved the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft".

This exclusion does not apply to:

- (a)** The use of another's advertising idea in your "advertisement"; or
- (b)** Infringing upon another's copyright, trade dress or slogan in your "advertisement".

- C.** The following definition is added to Paragraph **F. Liability And Medical Expenses Definitions:**

"Unmanned aircraft" means an aircraft that is not:

- a.** Designed;
- b.** Manufactured; or
- c.** Modified after manufacture;

to be controlled directly by a person from within or on the aircraft.

BUSINESSOWNERS COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this Coverage Form, the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the company providing this insurance.

In Section II – Liability, the word "insured" means any person or organization qualifying as such under Paragraph C. Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Paragraph H. Property Definitions in Section I – Property and Paragraph F. Liability And Medical Expenses Definitions in Section II – Liability.

SECTION I – PROPERTY

A. Coverage

We will pay for direct physical loss of or damage to Covered Property at the premises described in the Declarations caused by or resulting from any Covered Cause of Loss.

1. Covered Property

Covered Property includes Buildings as described under Paragraph a. below, Business Personal Property as described under Paragraph b. below, or both, depending on whether a Limit Of Insurance is shown in the Declarations for that type of property. Regardless of whether coverage is shown in the Declarations for Buildings, Business Personal Property, or both, there is no coverage for property described under Paragraph 2. Property Not Covered.

a. Buildings, meaning the buildings and structures at the premises described in the Declarations, including:

- (1)** Completed additions;
- (2)** Fixtures, including outdoor fixtures;
- (3)** Permanently installed:
 - (a)** Machinery; and
 - (b)** Equipment;
- (4)** Your personal property in apartments, rooms or common areas furnished by you as landlord;

(5) Personal property owned by you that is used to maintain or service the buildings or structures or the premises, including:

- (a)** Fire extinguishing equipment;
- (b)** Outdoor furniture;
- (c)** Floor coverings; and
- (d)** Appliances used for refrigerating, ventilating, cooking, dishwashing or laundering;

(6) If not covered by other insurance:

- (a)** Additions under construction, alterations and repairs to the buildings or structures;
- (b)** Materials, equipment, supplies and temporary structures, on or within 100 feet of the described premises, used for making additions, alterations or repairs to the buildings or structures.

b. Business Personal Property located in or on the buildings or structures at the described premises or in the open (or in a vehicle) within 100 feet of the buildings or structures or within 100 feet of the premises described in the Declarations, whichever distance is greater, including:

- (1)** Property you own that is used in your business;
- (2)** Property of others that is in your care, custody or control, except as otherwise provided in Loss Payment Property Loss Condition Paragraph E.5.d.(3)(b);
- (3)** Tenant's improvements and betterments. Improvements and betterments are fixtures, alterations, installations or additions:
 - (a)** Made a part of the building or structure you occupy but do not own; and
 - (b)** You acquired or made at your expense but cannot legally remove;
- (4)** Leased personal property which you have a contractual responsibility to insure, unless otherwise provided for under Paragraph 1.b.(2); and

- (5) Exterior building glass, if you are a tenant and no Limit Of Insurance is shown in the Declarations for Building property. The glass must be owned by you or in your care, custody or control.

2. Property Not Covered

Covered Property does not include:

- a. Aircraft, automobiles, motortrucks and other vehicles subject to motor vehicle registration;
- b. "Money" or "securities" except as provided in the:
 - (1) Money And Securities Optional Coverage; or
 - (2) Employee Dishonesty Optional Coverage;
- c. Contraband, or property in the course of illegal transportation or trade;
- d. Land (including land on which the property is located), water, growing crops or lawns (other than lawns which are part of a vegetated roof);
- e. Outdoor fences, radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers, signs (other than signs attached to buildings), trees, shrubs or plants (other than trees, shrubs or plants which are part of a vegetated roof), all except as provided in the:
 - (1) Outdoor Property Coverage Extension; or
 - (2) Outdoor Signs Optional Coverage;
- f. Watercraft (including motors, equipment and accessories) while afloat;
- g. Accounts, bills, food stamps, other evidences of debt, accounts receivable or "valuable papers and records"; except as otherwise provided in this policy;
- h. "Computer(s)" which are permanently installed or designed to be permanently installed in any aircraft, watercraft, motortruck or other vehicle subject to motor vehicle registration. This paragraph does not apply to "computer(s)" while held as "stock";
- i. "Electronic data", except as provided under Additional Coverages – Electronic Data. This Paragraph i. does not apply to your "stock" of prepackaged software or to "electronic data" which is integrated in and operates or controls the building's elevator, lighting, heating, ventilation, air conditioning or security system; or
- j. Animals, unless owned by others and boarded by you, or if owned by you, only as "stock" while inside of buildings.

3. Covered Causes Of Loss

Direct physical loss unless the loss is excluded or limited under Section I – Property.

4. Limitations

- a. We will not pay for loss of or damage to:
 - (1) Steam boilers, steam pipes, steam engines or steam turbines caused by or resulting from any condition or event inside such equipment. But we will pay for loss of or damage to such equipment caused by or resulting from an explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.
 - (2) Hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment, other than an explosion.
 - (3) Property that is missing, where the only evidence of the loss or damage is a shortage disclosed on taking inventory, or other instances where there is no physical evidence to show what happened to the property. This limitation does not apply to the Optional Coverage for Money and Securities.
 - (4) Property that has been transferred to a person or to a place outside the described premises on the basis of unauthorized instructions.
 - (5) The interior of any building or structure, or to personal property in the building or structure, caused by or resulting from rain, snow, sleet, ice, sand or dust, whether driven by wind or not, unless:
 - (a) The building or structure first sustains damage by a Covered Cause of Loss to its roof or walls through which the rain, snow, sleet, ice, sand or dust enters; or

- (b) The loss or damage is caused by or results from thawing of snow, sleet or ice on the building or structure.
- (6) Lawns, trees, shrubs or plants which are part of a vegetated roof, caused by or resulting from:
 - (a) Dampness or dryness of atmosphere or of soil supporting the vegetation;
 - (b) Changes in or extremes of temperature;
 - (b) Disease;
 - (d) Frost or hail; or
 - (e) Rain, snow, ice or sleet.
- b. We will not pay for loss of or damage to the following types of property unless caused by the "specified causes of loss" or building glass breakage:
 - (1) Animals, and then only if they are killed or their destruction is made necessary.
 - (2) Fragile articles such as glassware, statuary, marble, chinaware and porcelain, if broken. This restriction does not apply to:
 - (a) Glass that is part of the exterior or interior of a building or structure;
 - (b) Containers of property held for sale; or
 - (c) Photographic or scientific instrument lenses.
- c. For loss or damage by theft, the following types of property are covered only up to the limits shown (unless a higher Limit Of Insurance is shown in the Declarations):
 - (1) \$2,500 for furs, fur garments and garments trimmed with fur.
 - (2) \$2,500 for jewelry, watches, watch movements, jewels, pearls, precious and semiprecious stones, bullion, gold, silver, platinum and other precious alloys or metals. This limit does not apply to jewelry and watches worth \$100 or less per item.
 - (3) \$2,500 for patterns, dies, molds and forms.

5. Additional Coverages

a. Debris Removal

- (1) Subject to Paragraphs (2), (3) and (4), we will pay your expense to remove debris of Covered Property and other debris that is on the described premises, when such debris is caused by or results from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date of direct physical loss or damage.
- (2) Debris Removal does not apply to costs to:
 - (a) Remove debris of property of yours that is not insured under this policy, or property in your possession that is not Covered Property;
 - (b) Remove debris of property owned by or leased to the landlord of the building here our described premises are located, unless you have a contractual responsibility to insure such property and it is insured under this policy;
 - (c) Remove any property that is Property Not Covered, including property addressed under the Outdoor Property Coverage Extension;
 - (d) Remove property of others of a type that would not be Covered Property under this policy;
 - (e) Remove deposits of mud or earth from the grounds of the described premises;
 - (f) Extract "pollutants" from land or water; or
 - (g) Remove, restore or replace polluted land or water.
- (3) Subject to the exceptions in Paragraph (4), the following provisions apply:
 - (a) The most that we will pay for the total of direct physical loss or damage plus debris removal expense is the Limit of Insurance applicable to the Covered Property that has sustained loss or damage.

(b) Subject to Paragraph (3)(a) above, the amount we will pay for debris removal expense is limited to 25% of the sum of the deductible plus the amount that we pay for direct physical loss or damage to the Covered Property that has sustained loss or damage. However, if no Covered Property has sustained direct physical loss or damage, the most we will pay for removal of debris of other property (if such removal is covered under this Additional Coverage) is \$5,000 at each location.

(4) We will pay up to an additional \$25,000 for debris removal expense, for each location, in any one occurrence of physical loss or damage to Covered Property, if one or both of the following circumstances apply:

(a) The total of the actual debris removal expense plus the amount we pay for direct physical loss or damage exceeds the Limit of Insurance on the Covered Property that has sustained loss or damage.

(b) The actual debris removal expense exceeds 25% of the sum of the deductible plus the amount that we pay for direct physical loss or damage to the Covered Property that has sustained loss or damage.

Therefore, if Paragraphs (4)(a) and/or (4)(b) apply, our total payment for direct physical loss or damage and debris removal expense may reach but will never exceed the Limit of Insurance on the Covered Property that has sustained loss or damage, plus \$25,000.

(5) Examples

Example 1

Limit of Insurance	\$ 90,000
Amount of Deductible	\$ 500
Amount of Loss	\$ 50,000
Amount of Loss Payable	\$ 49,500
	(\$50,000 - \$500)
Debris Removal Expense	\$ 10,000
Debris Removal Expense Payable	\$ 10,000
	(\$10,000 is 20% of \$50,000)

The debris removal expense is less than 25% of the sum of the loss payable plus the deductible. The sum of the loss payable and the debris removal expense (\$49,500 + \$10,000 = \$59,500) is less than the Limit of Insurance. Therefore, the full amount of debris removal expense is payable in accordance with the terms of Paragraph (3).

Example 2

Limit of Insurance	\$ 90,000
Amount of Deductible	\$ 500
Amount of Loss	\$ 80,000
Amount of Loss Payable	\$ 79,500
	(\$80,000 - \$500)
Debris Removal Expense	\$ 40,000
Debris Removal Expense Payable	
Basic Amount	\$ 10,500
Additional Amount	\$ 25,000

The basic amount payable for debris removal expense under the terms of Paragraph (3) is calculated as follows: \$80,000 (\$79,500 + \$500) x .25 = \$20,000; capped at \$10,500. The cap applies because the sum of the loss payable (\$79,500) and the basic amount payable for debris removal expense (\$10,500) cannot exceed the Limit of Insurance (\$90,000).

The additional amount payable for debris removal expense is provided in accordance with the terms of Paragraph (4), because the debris removal expense (\$40,000) exceeds 25% of the loss payable plus the deductible (\$40,000 is 50% of \$80,000), and because the sum of the loss payable and debris removal expense (\$79,500 + \$40,000 = \$119,500) would exceed the Limit of Insurance (\$90,000). The additional amount of covered debris removal expense is \$25,000, the maximum payable under Paragraph (4). Thus, the total payable for debris removal in this example is \$35,000; \$4,500 of the debris removal expense is not covered.

b. Preservation Of Property

If it is necessary to move Covered Property from the described premises to preserve it from loss or damage by a Covered Cause of Loss, we will pay for any direct physical loss of or damage to that property:

- (1) While it is being moved or while temporarily stored at another location; and
- (2) Only if the loss or damage occurs within 30 days after the property is first moved.

c. Fire Department Service Charge

When the fire department is called to save or protect Covered Property from a Covered Cause of Loss, we will pay up to \$2,500 for service at each premises described in the Declarations, unless a different limit is shown in the Declarations. Such limit is the most we will pay regardless of the number of responding fire departments or fire units, and regardless of the number or type of services performed.

This Additional Coverage applies to your liability for fire department service charges:

- (1) Assumed by contract or agreement prior to loss; or
- (2) Required by local ordinance.

d. Collapse

The coverage provided under this Additional Coverage – Collapse applies only to an abrupt collapse as described and limited in Paragraphs **d.(1)** through **d.(7)**.

- (1) For the purpose of this Additional Coverage – Collapse, abrupt collapse means an abrupt falling down or caving in of a building or any part of a building with the result that the building or part of the building cannot be occupied for its intended purpose.
- (2) We will pay for direct physical loss or damage to Covered Property, caused by abrupt collapse of a building or any part of a building that is insured under this policy or that contains Covered Property insured under this policy, if such collapse is caused by one or more of the following:
 - (a) Building decay that is hidden from view, unless the presence of such decay is known to an insured prior to collapse;

- (b) Insect or vermin damage that is hidden from view, unless the presence of such damage is known to an insured prior to collapse;

- (c) Use of defective material or methods in construction, remodeling or renovation if the abrupt collapse occurs during the course of the construction, remodeling or renovation.

- (d) Use of defective material or methods in construction, remodeling or renovation if the abrupt collapse occurs after the construction, remodeling or renovation is complete, but only if the collapse is caused in part by:
 - (i) A cause of loss listed in Paragraph **(2)(a)** or **(2)(b)**;
 - (ii) One or more of the "specified causes of loss";
 - (iii) Breakage of building glass;
 - (iv) Weight of people or personal property; or
 - (v) Weight of rain that collects on a roof.

(3) This Additional Coverage – Collapse does **not** apply to:

- (a) A building or any part of a building that is in danger of falling down or caving in;

- (b) A part of a building that is standing, even if it has separated from another part of the building; or

- (c) A building that is standing or any part of a building that is standing, even if it shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.

(4) With respect to the following property:

- (a) Awnings;

- (b) Gutters and downspouts;

- (c) Yard fixtures;

- (d) Outdoor swimming pools;

- (e) Piers, wharves and docks;

- (f) Beach or diving platforms or appurtenances;

- (g) Retaining walls; and

- (h) Walks, roadways and other paved surfaces;

if an abrupt collapse is caused by a cause of loss listed in Paragraphs **(2)(a)** through **(2)(d)**, we will pay for loss or damage to that property only if such loss or damage is a direct result of the abrupt collapse of a building insured under this policy and the property is Covered Property under this policy.

- (5)** If personal property abruptly falls down or caves in and such collapse is **not** the result of abrupt collapse of a building, we will pay for loss or damage to Covered Property caused by such collapse of personal property only if:

- (a)** The collapse of personal property was caused by a cause of loss listed in Paragraphs **(2)(a)** through **(2)(d)** of this Additional Coverage;
- (b)** The personal property which collapses is inside a building; and
- (c)** The property which collapses is not of a kind listed in Paragraph **(4)**, regardless of whether that kind of property is considered to be personal property or real property.

The coverage stated in this Paragraph **(5)** does not apply to personal property if marring and/or scratching is the only damage to that personal property caused by the collapse.

- (6)** This Additional Coverage – Collapse does not apply to personal property that has not abruptly fallen down or caved in, even if the personal property shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.
- (7)** This Additional Coverage – Collapse will not increase the Limits of Insurance provided in this policy.
- (8)** The term Covered Cause of Loss includes the Additional Coverage – Collapse as described and limited in Paragraphs **d.(1)** through **d.(7)**.

e. Water Damage, Other Liquids, Powder Or Molten Material Damage

If loss or damage caused by or resulting from covered water or other liquid, powder or molten material occurs, we will also pay the cost to tear out and replace any part of the building or structure to repair damage to the system or appliance from which the water or other substance escapes.

We will not pay the cost to repair any defect that caused the loss or damage, but we will pay the cost to repair or replace damaged parts of fire extinguishing equipment if the damage:

- (1)** Results in discharge of any substance from an automatic fire protection system; or
- (2)** Is directly caused by freezing.

f. Business Income

(1) Business Income

- (a)** We will pay for the actual loss of Business Income you sustain due to the necessary suspension of your "operations" during the "period of restoration". The suspension must be caused by direct physical loss of or damage to property at the described premises. The loss or damage must be caused by or result from a Covered Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 100 feet of such premises.

With respect to the requirements set forth in the preceding paragraph, if you occupy only part of a building, your premises mean:

- (i)** The portion of the building which you rent, lease or occupy;
- (ii)** The area within 100 feet of the building or within 100 feet of the premises described in the Declarations, whichever distance is greater (with respect to loss of or damage to personal property in the open or personal property in a vehicle); and
- (iii)** Any area within the building or at the described premises, if that area services, or is used to gain access to, the portion of the building which you rent, lease or occupy.

(b) We will only pay for loss of Business Income that you sustain during the "period of restoration" and that occurs within 12 consecutive months after the date of direct physical loss or damage. We will only pay for ordinary payroll expenses for 60 days following the date of direct physical loss or damage, unless a greater number of days is shown in the Declarations.

(c) Business Income means the:

(i) Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred if no physical loss or damage had occurred, but not including any Net Income that would likely have been earned as a result of an increase in the volume of business due to favorable business conditions caused by the impact of the Covered Cause of Loss on customers or on other businesses; and

(ii) Continuing normal operating expenses incurred, including payroll.

(d) Ordinary payroll expenses:

(i) Means payroll expenses for all your employees except:

- i. Officers;
- ii. Executives;
- iii. Department Managers;
- iv. Employees under contract; and
- v. Additional Exemptions shown in the Declarations as:

- Job Classifications; or
- Employees.

(ii) Include:

- i. Payroll;
- ii. Employee benefits, if directly related to payroll;
- iii. FICA payments you pay;
- iv. Union dues you pay; and
- v. Workers' compensation premiums.

(2) Extended Business Income

(a) If the necessary suspension of your "operations" produces a Business Income loss payable under this policy, we will pay for the actual loss of Business Income you incur during the period that:

(i) Begins on the date property except finished stock is actually repaired, rebuilt or replaced and "operations" are resumed; and

(ii) Ends on the earlier of:

i. The date you could restore your "operations", with reasonable speed, to the level which would generate the Business Income amount that would have existed if no direct physical loss or damage had occurred; or

ii. 60 consecutive days after the date determined in Paragraph **(a)(i)** above, unless a greater number of consecutive days is shown in the Declarations.

However, Extended Business Income does not apply to loss of Business Income incurred as a result of unfavorable business conditions caused by the impact of the Covered Cause of Loss in the area where the described premises are located.

(b) Loss of Business Income must be caused by direct physical loss or damage at the described premises caused by or resulting from any Covered Cause of Loss.

(3) With respect to the coverage provided in this Additional Coverage, suspension means:

(a) The partial slowdown or complete cessation of your business activities; or

(b) That a part or all of the described premises is rendered untenable, if coverage for Business Income applies.

(4) This Additional Coverage is not subject to the Limits of Insurance of Section I – Property.

g. Extra Expense

- (1) We will pay necessary Extra Expense you incur during the "period of restoration" that you would not have incurred if there had been no direct physical loss or damage to property at the described premises. The loss or damage must be caused by or result from a Covered Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 100 feet of such premises.

With respect to the requirements set forth in the preceding paragraph, if you occupy only part of a building, your premises mean:

- (a) The portion of the building which you rent, lease or occupy;
 - (b) The area within 100 feet of the building or within 100 feet of the premises described in the Declarations, whichever distance is greater (with respect to loss of or damage to personal property in the open or personal property in a vehicle); and
 - (c) Any area within the building or at the described premises, if that area services, or is used to gain access to, the portion of the building which you rent, lease or occupy.
- (2) Extra Expense means expense incurred:
- (a) To avoid or minimize the suspension of business and to continue "operations":
 - (i) At the described premises; or
 - (ii) At replacement premises or at temporary locations, including relocation expenses, and costs to equip and operate the replacement or temporary locations.
 - (b) To minimize the suspension of business if you cannot continue "operations".

(c) To:

- (i) Repair or replace any property; or
 - (ii) Research, replace or restore the lost information on damaged "valuable papers and records";
- to the extent it reduces the amount of loss that otherwise would have been payable under this Additional Coverage or Additional Coverage f. Business Income.
- (3) With respect to the coverage provided in this Additional Coverage, suspension means:
- (a) The partial slowdown or complete cessation of your business activities; or
 - (b) That a part or all of the described premises is rendered untenable, if coverage for Business Income applies.
- (4) We will only pay for Extra Expense that occurs within 12 consecutive months after the date of direct physical loss or damage. This Additional Coverage is not subject to the Limits of Insurance of Section I – Property.

h. Pollutant Clean-up And Removal

We will pay your expense to extract "pollutants" from land or water at the described premises if the discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused by or results from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date on which the Covered Cause of Loss occurs.

This Additional Coverage does not apply to costs to test for, monitor or assess the existence, concentration or effects of "pollutants". But we will pay for testing which is performed in the course of extracting the "pollutants" from the land or water.

The most we will pay for each location under this Additional Coverage is \$10,000 for the sum of all such expenses arising out of Covered Causes of Loss occurring during each separate 12-month period of this policy.

i. Civil Authority

When a Covered Cause of Loss causes damage to property other than property at the described premises, we will pay for the actual loss of Business Income you sustain and necessary Extra Expense caused by action of civil authority that prohibits access to the described premises, provided that both of the following apply:

- (1) Access to the area immediately surrounding the damaged property is prohibited by civil authority as a result of the damage, and the described premises are within that area but are not more than one mile from the damaged property; and
- (2) The action of civil authority is taken in response to dangerous physical conditions resulting from the damage or continuation of the Covered Cause of Loss that caused the damage, or the action is taken to enable a civil authority to have unimpeded access to the damaged property.

Civil Authority Coverage for Business Income will begin 72 hours after the time of the first action of civil authority that prohibits access to the described premises and will apply for a period of up to four consecutive weeks from the date on which such coverage began.

Civil Authority Coverage for necessary Extra Expense will begin immediately after the time of the first action of civil authority that prohibits access to the described premises and will end:

- (1) Four consecutive weeks after the date of that action; or
- (2) When your Civil Authority Coverage for Business Income ends;

whichever is later.

The definitions of Business Income and Extra Expense contained in the Business Income and Extra Expense Additional Coverages also apply to this Civil Authority Additional Coverage. The Civil Authority Additional Coverage is not subject to the Limits of Insurance of Section I – Property.

j. Money Orders And "Counterfeit Money"

We will pay for loss resulting directly from your having accepted in good faith, in exchange for merchandise, "money" or services:

- (1) Money orders issued by any post office, express company or bank that are not paid upon presentation; or
- (2) "Counterfeit money" that is acquired during the regular course of business.

The most we will pay for any loss under this Additional Coverage is \$1,000.

k. Forgery Or Alteration

- (1) We will pay for loss resulting directly from forgery or alteration of any check, draft, promissory note, bill of exchange or similar written promise of payment in "money" that you or your agent has issued, or that was issued by someone who impersonates you or your agent.
- (2) If you are sued for refusing to pay the check, draft, promissory note, bill of exchange or similar written promise of payment in "money", on the basis that it has been forged or altered, and you have our written consent to defend against the suit, we will pay for any reasonable legal expenses that you incur in that defense.
- (3) For the purpose of this coverage, check includes a substitute check as defined in the Check Clearing for the 21st Century Act and will be treated the same as the original it replaced.
- (4) The most we will pay for any loss, including legal expenses, under this Additional Coverage is \$2,500, unless a higher Limit Of Insurance is shown in the Declarations.

l. Increased Cost Of Construction

- (1) This Additional Coverage applies only to buildings insured on a replacement cost basis.
- (2) In the event of damage by a Covered Cause of Loss to a building that is Covered Property, we will pay the increased costs incurred to comply with the minimum standards of an ordinance or law in the course of repair, rebuilding or replacement of damaged parts of that property, subject to the limitations stated in Paragraphs (3) through (9) of this Additional Coverage.

(3) The ordinance or law referred to in Paragraph (2) of this Additional Coverage is an ordinance or law that regulates the construction or repair of buildings or establishes zoning or land use requirements at the described premises and is in force at the time of loss.

(4) Under this Additional Coverage, we will not pay any costs due to an ordinance or law that:

(a) You were required to comply with before the loss, even when the building was undamaged; and

(b) You failed to comply with.

(5) Under this Additional Coverage, we will not pay for:

(a) The enforcement of or compliance with any ordinance or law which requires demolition, repair, replacement, reconstruction, remodeling or remediation of property due to contamination by "pollutants" or due to the presence, growth, proliferation, spread or any activity of "fungi", wet rot or dry rot; or

(b) Any costs associated with the enforcement of or compliance with an ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants", "fungi", wet rot or dry rot.

(6) The most we will pay under this Additional Coverage, for each described building insured under Section I – Property, is \$10,000. If a damaged building(s) is covered under a blanket Limit of Insurance which applies to more than one building or item of property, then the most we will pay under this Additional Coverage, for each damaged building, is \$10,000.

The amount payable under this Additional Coverage is additional insurance.

(7) With respect to this Additional Coverage:

(a) We will not pay for the Increased Cost of Construction:

(i) Until the property is actually repaired or replaced, at the same or another premises; and

(ii) Unless the repair or replacement is made as soon as reasonably possible after the loss or damage, not to exceed two years. We may extend this period in writing during the two years.

(b) If the building is repaired or replaced at the same premises, or if you elect to rebuild at another premises, the most we will pay for the Increased Cost of Construction is the increased cost of construction at the same premises.

(c) If the ordinance or law requires relocation to another premises, the most we will pay for the Increased Cost of Construction is the increased cost of construction at the new premises.

(8) This Additional Coverage is not subject to the terms of the Ordinance Or Law Exclusion, to the extent that such exclusion would conflict with the provisions of this Additional Coverage.

(9) The costs addressed in the Loss Payment Property Loss Condition in Section I – Property do not include the increased cost attributable to enforcement of or compliance with an ordinance or law. The amount payable under this Additional Coverage, as stated in Paragraph (6) of this Additional Coverage, is not subject to such limitation.

m. Business Income From Dependent Properties

(1) We will pay for the actual loss of Business Income you sustain due to physical loss or damage at the premises of a dependent property or secondary dependent property caused by or resulting from any Covered Cause of Loss.

However, this Additional Coverage does not apply when the only loss at the premises of a dependent property or secondary dependent property is loss or damage to "electronic data", including destruction or corruption of "electronic data". If the dependent property or secondary dependent property sustains loss or damage to "electronic data" and other property, coverage under this Additional Coverage will not continue once the other property is repaired, rebuilt or replaced.

The most we will pay under this Additional Coverage is \$5,000 unless a higher Limit Of Insurance is indicated in the Declarations.

- (2) We will reduce the amount of your Business Income loss, other than Extra Expense, to the extent you can resume "operations", in whole or in part, by using any other available:
 - (a) Source of materials; or
 - (b) Outlet for your products.
- (3) If you do not resume "operations", or do not resume "operations" as quickly as possible, we will pay based on the length of time it would have taken to resume "operations" as quickly as possible.
- (4) Dependent property means property owned by others whom you depend on to:
 - (a) Deliver materials or services to you, or to others for your account. But services does not mean water supply services, wastewater removal services, communication supply services or power supply services;
 - (b) Accept your products or services;
 - (c) Manufacture your products for delivery to your customers under contract for sale; or
 - (d) Attract customers to your business.

The dependent property must be located in the coverage territory of this policy.
- (5) Secondary dependent property means an entity which is not owned or operated by a dependent property and which:
 - (a) Delivers materials or services to a dependent property, which in turn are used by the dependent property in providing materials or services to you; or

- (b) Accepts materials or services from a dependent property, which in turn accepts your materials or services.

A road, bridge, tunnel, waterway, airfield, pipeline or any other similar area or structure is not a secondary dependent property.

Any property which delivers any of the following services is not a secondary dependent property with respect to such services:

- (i) Water supply services;
- (ii) Wastewater removal services;
- (iii) Communication supply services;
- or
- (iv) Power supply services.

The secondary dependent property must be located in the coverage territory of this policy.

- (6) The coverage period for Business Income under this Additional Coverage:
 - (a) Begins 72 hours after the time of direct physical loss or damage caused by or resulting from any Covered Cause of Loss at the premises of the dependent property or secondary dependent property; and
 - (b) Ends on the date when the property at the premises of the dependent property or secondary dependent property should be repaired, rebuilt or replaced with reasonable speed and similar quality.
- (7) The Business Income coverage period, as stated in Paragraph (6), does not include any increased period required due to the enforcement of or compliance with any ordinance or law that:
 - (a) Regulates the construction, use or repair, or requires the tearing down of any property; or
 - (b) Requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

The expiration date of this policy will not reduce the Business Income coverage period.

- (8) The definition of Business Income contained in the Business Income Additional Coverage also applies to this Business Income From Dependent Properties Additional Coverage.

n. Glass Expenses

- (1) We will pay for expenses incurred to put up temporary plates or board up openings if repair or replacement of damaged glass is delayed.
- (2) We will pay for expenses incurred to remove or replace obstructions when repairing or replacing glass that is part of a building. This does not include removing or replacing window displays.

o. Fire Extinguisher Systems Recharge Expense

- (1) We will pay:
- (a) The cost of recharging or replacing, whichever is less, your fire extinguishers and fire extinguishing systems (including hydrostatic testing if needed) if they are discharged on or within 100 feet of the described premises; and
- (b) For loss or damage to Covered Property if such loss or damage is the result of an accidental discharge of chemicals from a fire extinguisher or a fire extinguishing system.
- (2) No coverage will apply if the fire extinguishing system is discharged during installation or testing.
- (3) The most we will pay under this Additional Coverage is \$5,000 in any one occurrence.

p. Electronic Data

- (1) Subject to the provisions of this Additional Coverage, we will pay for the cost to replace or restore "electronic data" which has been destroyed or corrupted by a Covered Cause of Loss. To the extent that "electronic data" is not replaced or restored, the loss will be valued at the cost of replacement of the media on which the "electronic data" was stored, with blank media of substantially identical type.

- (2) The Covered Causes of Loss applicable to Business Personal Property include a computer virus, harmful code or similar instruction introduced into or enacted on a computer system (including "electronic data") or a network to which it is connected, designed to damage or destroy any part of the system or disrupt its normal operation. But there is no coverage for loss or damage caused by or resulting from manipulation of a computer system (including "electronic data") by any employee, including a temporary or leased employee, or by an entity retained by you, or for you, to inspect, design, install, modify, maintain, repair or replace that system.

- (3) The most we will pay under this Additional Coverage – Electronic Data for all loss or damage sustained in any one policy year, regardless of the number of occurrences of loss or damage or the number of premises, locations or computer systems involved, is \$10,000, unless a higher Limit Of Insurance is shown in the Declarations. If loss payment on the first occurrence does not exhaust this amount, then the balance is available for subsequent loss or damage sustained in, but not after, that policy year. With respect to an occurrence which begins in one policy year and continues or results in additional loss or damage in a subsequent policy year(s), all loss or damage is deemed to be sustained in the policy year in which the occurrence began.

- (4) This Additional Coverage does not apply to your "stock" of prepackaged software, or to "electronic data" which is integrated in and operates or controls a building's elevator, lighting, heating, ventilation, air conditioning or security system.

q. Interruption Of Computer Operations

- (1) Subject to all provisions of this Additional Coverage, you may extend the insurance that applies to Business Income and Extra Expense to apply to a suspension of "operations" caused by an interruption in computer operations due to destruction or corruption of "electronic data" due to a Covered Cause of Loss

- (2) With respect to the coverage provided under this Additional Coverage, the Covered Causes of Loss are subject to the following:
- (a) Coverage under this Additional Coverage – Interruption Of Computer Operations is limited to the "specified causes of loss" and Collapse.
 - (b) If the Businessowners Coverage Form is endorsed to add a Covered Cause of Loss, the additional Covered Cause of Loss does not apply to the coverage provided under this Additional Coverage.
 - (c) The Covered Causes of Loss include a computer virus, harmful code or similar instruction introduced into or enacted on a computer system (including "electronic data") or a network to which it is connected, designed to damage or destroy any part of the system or disrupt its normal operation. But there is no coverage for an interruption related to manipulation of a computer system (including "electronic data") by any employee, including a temporary or leased employee, or by an entity retained by you, or for you, to inspect, design, install, modify, maintain, repair or replace that system.
- (3) The most we will pay under this Additional Coverage – Interruption Of Computer Operations for all loss sustained and expense incurred in any one policy year, regardless of the number of interruptions or the number of premises, locations or computer systems involved, is \$10,000 unless a higher Limit Of Insurance is shown in the Declarations. If loss payment relating to the first interruption does not exhaust this amount, then the balance is available for loss or expense sustained or incurred as a result of subsequent interruptions in that policy year. A balance remaining at the end of a policy year does not increase the amount of insurance in the next policy year. With respect to any interruption which begins in one policy year and continues or results in additional loss or expense in a subsequent policy year(s), all loss and expense is deemed to be sustained or incurred in the policy year in which the interruption began.
- (4) This Additional Coverage – Interruption Of Computer Operations does not apply to loss sustained or expense incurred after the end of the "period of restoration", even if the amount of insurance stated in (3) above has not been exhausted.
- (5) Coverage for Business Income does not apply when a suspension of "operations" is caused by destruction or corruption of "electronic data", or any loss or damage to "electronic data", except as provided under Paragraphs (1) through (4) of this Additional Coverage.

(6) Coverage for Extra Expense does not apply when action is taken to avoid or minimize a suspension of "operations" caused by destruction or corruption of "electronic data", or any loss or damage to "electronic data", except as provided under Paragraphs (1) through (4) of this Additional Coverage.

(7) This Additional Coverage does not apply when loss or damage to "electronic data" involves only "electronic data" which is integrated in and operates or controls a building's elevator, lighting, heating, ventilation, air conditioning or security system.

r. Limited Coverage For "Fungi", Wet Rot Or Dry Rot

(1) The coverage described in Paragraphs r.(2) and r.(6) only applies when the "fungi", wet rot or dry rot is the result of a "specified cause of loss" other than fire or lightning that occurs during the policy period and only if all reasonable means were used to save and preserve the property from further damage at the time of and after that occurrence.

This Additional Coverage does not apply to lawns, trees, shrubs or plants which are part of a vegetated roof.

(2) We will pay for loss or damage by "fungi", wet rot or dry rot. As used in this Limited Coverage, the term loss or damage means:

(a) Direct physical loss or damage to Covered Property caused by "fungi", wet rot or dry rot, including the cost of removal of the "fungi", wet rot or dry rot;

(b) The cost to tear out and replace any part of the building or other property as needed to gain access to the "fungi", wet rot or dry rot; and

(c) The cost of testing performed after removal, repair, replacement or restoration of the damaged property is completed, provided there is a reason to believe that "fungi", wet rot or dry rot is present.

(3) The coverage described under this Limited Coverage is limited to \$15,000. Regardless of the number of claims, this limit is the most we will pay for the total of all loss or damage arising out of all occurrences of "specified causes of loss" (other than fire or lightning) which take place in a 12-month period (starting with the beginning of the present annual policy period). With respect to a particular occurrence of loss which results in "fungi", wet rot or dry rot, we will not pay more than the total of \$15,000 even if the "fungi", wet rot or dry rot continues to be present or active, or recurs, in a later policy period

(4) The coverage provided under this Limited Coverage does not increase the applicable Limit of Insurance on any Covered Property. If a particular occurrence results in loss or damage by "fungi", wet rot or dry rot, and other loss or damage, we will not pay more, for the total of all loss or damage, than the applicable Limit of Insurance on the affected Covered Property.

If there is covered loss or damage to Covered Property, not caused by "fungi", wet rot or dry rot, loss payment will not be limited by the terms of this Limited Coverage, except to the extent that "fungi", wet rot or dry rot causes an increase in the loss. Any such increase in the loss will be subject to the terms of this Limited Coverage.

(5) The terms of this Limited Coverage do not increase or reduce the coverage provided under the Water Damage, Other Liquids, Powder Or Molten Material Damage or Collapse Additional Coverages.

(6) The following applies only if Business Income and/or Extra Expense Coverage applies to the described premises and only if the suspension of "operations" satisfies all the terms and conditions of the applicable Business Income and/or Extra Expense Additional Coverage:

- (a) If the loss which resulted in "fungi", wet rot or dry rot does not in itself necessitate a suspension of "operations", but such suspension is necessary due to loss or damage to property caused by "fungi", wet rot or dry rot, then our payment under the Business Income and/or Extra Expense Additional Coverages is limited to the amount of loss and/or expense sustained in a period of not more than 30 days. The days need not be consecutive.
- (b) If a covered suspension of "operations" was caused by loss or damage other than "fungi", wet rot or dry rot, but remediation of "fungi", wet rot or dry rot prolongs the "period of restoration", we will pay for loss and/or expense sustained during the delay (regardless of when such a delay occurs during the "period of restoration"), but such coverage is limited to 30 days. The days need not be consecutive.

6. Coverage Extensions

In addition to the Limits of Insurance of Section I – Property, you may extend the insurance provided by this policy as provided below.

Except as otherwise provided, the following extensions apply to property located in or on the building described in the Declarations or in the open (or in a vehicle) within 100 feet of the described premises:

a. Newly Acquired Or Constructed Property

(1) Buildings

If this policy covers Buildings, you may extend that insurance to apply to:

- (a) Your new buildings while being built on the described premises; and
- (b) Buildings you acquire at premises other than the one described, intended for:
 - (i) Similar use as the building described in the Declarations; or
 - (ii) Use as a warehouse.

The most we will pay for loss or damage under this Extension is \$250,000 at each building.

(2) Business Personal Property

If this policy covers Business Personal Property, you may extend that insurance to apply to:

- (a) Business Personal Property, including such property that you newly acquire, at any location you acquire; or
- (b) Business Personal Property, including such property that you newly acquire, located at your newly constructed or acquired buildings at the location described in the Declarations.

This Extension does not apply to personal property that you temporarily acquire in the course of installing or performing work on such property or your wholesale activities.

The most we will pay for loss or damage under this Extension is \$100,000 at each building.

(3) Period Of Coverage

With respect to insurance provided under this Coverage Extension for Newly Acquired Or Constructed Property, coverage will end when any of the following first occurs:

- (a) This policy expires;
- (b) 30 days expire after you acquire the property or begin construction of that part of the building that would qualify as Covered Property; or
- (c) You report values to us.

We will charge you additional premium for values reported from the date you acquire the property or begin construction of that part of the building that would qualify as Covered Property.

b. Personal Property Off-premises

You may extend the insurance provided by this policy to apply to your Covered Property, other than "money" and "securities", "valuable papers and records" or accounts receivable, while it is in the course of transit or at a premises you do not own, lease or operate. The most we will pay for loss or damage under this Extension is \$10,000.

c. Outdoor Property

You may extend the insurance provided by this policy to apply to your outdoor fences, radio and television antennas (including satellite dishes), signs (other than signs attached to buildings), trees, shrubs and plants (other than trees, shrubs or plants which are part of a vegetated roof), including debris removal expense. Loss or damage must be caused by or result from any of the following causes of loss:

- (1) Fire;
- (2) Lightning;
- (3) Explosion;
- (4) Riot or Civil Commotion; or
- (5) Aircraft.

The most we will pay for loss or damage under this Extension is \$2,500, unless a higher Limit Of Insurance for Outdoor Property is shown in the Declarations, but not more than \$1,000 for any one tree, shrub or plant.

Subject to all aforementioned terms and limitations of coverage, this Coverage Extension includes the expense of removing from the described premises the debris of trees, shrubs and plants which are the property of others, except in the situation in which you are a tenant and such property is owned by the landlord of the described premises.

d. Personal Effects

You may extend the insurance that applies to Business Personal Property to apply to personal effects owned by you, your officers, your partners or "members", your "managers" or your employees, including temporary or leased employees. This extension does not apply to:

- (1) Tools or equipment used in your business; or
- (2) Loss or damage by theft.

The most we will pay for loss or damage under this Extension is \$2,500 at each described premises.

e. Valuable Papers And Records

- (1) You may extend the insurance that applies to Business Personal Property to apply to direct physical loss or damage to "valuable papers and records" that you own, or that are in your care, custody or control, caused by or resulting from a Covered Cause of Loss. This Coverage Extension includes the cost to research, replace or restore the lost information on "valuable papers and records" for which duplicates do not exist.
- (2) This Coverage Extension does not apply to:
 - (a) Property held as samples or for delivery after sale; and
 - (b) Property in storage away from the premises shown in the Declarations.
- (3) The most we will pay under this Coverage Extension for loss or damage to "valuable papers and records" in any one occurrence at the described premises is \$10,000, unless a higher Limit Of Insurance for "valuable papers and records" is shown in the Declarations.

For "valuable papers and records" not at the described premises, the most we will pay is \$5,000.

- (4) Loss or damage to "valuable papers and records" will be valued at the cost of restoration or replacement of the lost or damaged information. To the extent that the contents of the "valuable papers and records" are not restored, the "valuable papers and records" will be valued at the cost of replacement with blank materials of substantially identical type.
- (5) Paragraph **B. Exclusions** in Section **I** – Property does not apply to this Coverage Extension except for:
 - (a) Paragraph **B.1.c.**, Governmental Action;
 - (b) Paragraph **B.1.d.**, Nuclear Hazard;
 - (c) Paragraph **B.1.f.**, War And Military Action;

- (d) Paragraph **B.2.f.**, Dishonesty;
- (e) Paragraph **B.2.g.**, False Pretense;
- (f) Paragraph **B.2.m.(2)**, Errors Or Omissions; and
- (g) Paragraph **B.3.**

f. Accounts Receivable

- (1) You may extend the insurance that applies to Business Personal Property to apply to accounts receivable. We will pay:

- (a) All amounts due from your customers that you are unable to collect;
- (b) Interest charges on any loan required to offset amounts you are unable to collect pending our payment of these amounts;
- (c) Collection expenses in excess of your normal collection expenses that are made necessary by loss or damage; and
- (d) Other reasonable expenses that you incur to reestablish your records of accounts receivable;

that result from direct physical loss or damage by any Covered Cause of Loss to your records of accounts receivable.

- (2) The most we will pay under this Coverage Extension for loss or damage in any one occurrence at the described premises is \$10,000, unless a higher Limit of Insurance for accounts receivable is shown in the Declarations.

For accounts receivable not at the described premises, the most we will pay is \$5,000.

- (3) Paragraph **B.** Exclusions in Section **I** – Property does not apply to this Coverage Extension except for:

- (a) Paragraph **B.1.c.**, Governmental Action;
- (b) Paragraph **B.1.d.**, Nuclear Hazard;
- (c) Paragraph **B.1.f.**, War And Military Action;
- (d) Paragraph **B.2.f.**, Dishonesty;
- (e) Paragraph **B.2.g.**, False Pretense;
- (f) Paragraph **B.3.**; and
- (g) Paragraph **B.6.**, Accounts Receivable Exclusion.

g. Business Personal Property Temporarily In Portable Storage Units

- (1) You may extend the insurance that applies to Business Personal Property to apply to such property while temporarily stored in a portable storage unit (including a detached trailer) located within 100 feet of the buildings or structures described in the Declarations or within 100 feet of the described premises, whichever distance is greater.

- (2) The limitation under Paragraph **A.4.a.(5)** also applies to property in a portable storage unit.

- (3) Coverage under this Extension:

- (a) Will end 90 days after the Business Personal Property has been placed in the storage unit;
- (b) Does not apply if the storage unit itself has been in use at the described premises for more than 90 consecutive days, even if the Business Personal Property has been stored there for 90 or fewer days as of the time of loss or damage.

- (4) Under this Extension, the most we will pay for the total of all loss or damage to Business Personal Property is \$10,000 (unless a higher limit is indicated in the Declarations for such Extension) regardless of the number of storage units.

- (5) This Extension does not apply to loss or damage otherwise covered under this Coverage Form or any endorsement to this Coverage Form, and does not apply to loss or damage to the storage unit itself.

B. Exclusions

1. We will not pay for loss or damage caused directly or indirectly by any of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss. These exclusions apply whether or not the loss event results in widespread damage or affects a substantial area.

a. Ordinance Or Law

- (1) The enforcement of or compliance with any ordinance or law:
- (a) Regulating the construction, use or repair of any property; or

(b) Requiring the tearing down of any property, including the cost of removing its debris.

(2) This exclusion, Ordinance Or Law, applies whether the loss results from:

(a) An ordinance or law that is enforced even if the property has not been damaged; or

(b) The increased costs incurred to comply with an ordinance or law in the course of construction, repair, renovation, remodeling or demolition of property or removal of its debris, following a physical loss to that property.

b. Earth Movement

(1) Earthquake, including tremors and aftershocks and any earth sinking, rising or shifting related to such event;

(2) Landslide, including any earth sinking, rising or shifting related to such event;

(3) Mine subsidence, meaning subsidence of a man-made mine, whether or not mining activity has ceased;

(4) Earth sinking (other than sinkhole collapse), rising or shifting including soil conditions which cause settling, cracking or other disarrangement of foundations or other parts of realty. Soil conditions include contraction, expansion, freezing, thawing, erosion, improperly compacted soil and the action of water under the ground surface.

But if Earth Movement, as described in Paragraphs (1) through (4) above, results in fire or explosion, we will pay for the loss or damage caused by that fire or explosion.

(5) Volcanic eruption, explosion or effusion. But if volcanic eruption, explosion or effusion results in fire, building glass breakage or volcanic action, we will pay for the loss or damage caused by that fire, building glass breakage or volcanic action.

Volcanic action means direct loss or damage resulting from the eruption of a volcano when the loss or damage is caused by:

(a) Airborne volcanic blast or airborne shock waves;

(b) Ash, dust or particulate matter; or

(c) Lava flow.

With respect to coverage for volcanic action as set forth in **5(a)**, **(5)(b)** and **5(c)**, all volcanic eruptions that occur within any 168-hour period will constitute a single occurrence.

Volcanic action does not include the cost to remove ash, dust or particulate matter that does not cause direct physical loss of or damage to Covered Property.

This exclusion applies regardless of whether any of the above, in Paragraphs (1) through (5), is caused by an act of nature or is otherwise caused.

c. Governmental Action

Seizure or destruction of property by order of governmental authority.

But we will pay for loss or damage caused by or resulting from acts of destruction ordered by governmental authority and taken at the time of a fire to prevent its spread, if the fire would be covered under this policy.

d. Nuclear Hazard

Nuclear reaction or radiation, or radioactive contamination, however caused.

But if nuclear reaction or radiation, or radioactive contamination, results in fire, we will pay for the loss or damage caused by that fire.

e. Utility Services

The failure of power, communication, water or other utility service supplied to the described premises, however caused, if the failure:

(1) Originates away from the described premises; or

(2) Originates at the described premises, but only if such failure involves equipment used to supply the utility service to the described premises from a source away from the described premises.

Failure of any utility service includes lack of sufficient capacity and reduction in supply.

Loss or damage caused by a surge of power is also excluded, if the surge would not have occurred but for an event causing a failure of power.

But if the failure or surge of power, or the failure of communication, water or other utility service, results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

Communication services include but are not limited to service relating to Internet access or access to any electronic, cellular or satellite network.

This exclusion does not apply to loss or damage to "computer(s)" and "electronic data".

f. War And Military Action

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

g. Water

- (1) Flood, surface water, waves (including tidal wave and tsunami), tides, tidal water, overflow of any body of water, or spray from any of these, all whether or not driven by wind (including storm surge);
- (2) Mudslide or mudflow;
- (3) Water that backs up or overflows or is otherwise discharged from a sewer, drain, sump, sump pump or related equipment;
- (4) Water under the ground surface pressing on, or flowing or seeping through:
 - (a) Foundations, walls, floors or paved surfaces;
 - (b) Basements, whether paved or not; or
 - (c) Doors, windows or other openings; or
- (5) Waterborne material carried or otherwise moved by any of the water referred to in Paragraph (1), (3) or (4), or material carried or otherwise moved by mudslide or mudflow.

This exclusion applies regardless of whether any of the above, in Paragraphs (1) through (5), is caused by an act of nature or is otherwise caused. An example of a situation to which this exclusion applies is the situation where a dam, levee, seawall or other boundary or containment system fails in whole or in part, for any reason, to contain the water.

But if any of the above, in Paragraphs (1) through (5), results in fire, explosion or sprinkler leakage, we will pay for the loss or damage caused by that fire, explosion or sprinkler leakage.

h. Certain Computer-related Losses

(1) The failure, malfunction or inadequacy of:

- (a) Any of the following, whether belonging to any insured or to others:
 - (i) "Computer" hardware, including microprocessors or other electronic data processing equipment as may be described elsewhere in this policy;
 - (ii) "Computer" application software or other "electronic data" as may be described elsewhere in this policy;
 - (iii) "Computer" operating systems and related software;
 - (iv) "Computer" networks;
 - (v) Microprocessors ("computer" chips) not part of any "computer" system; or
 - (vi) Any other computerized or electronic equipment or components; or
- (b) Any other products, and any services, data or functions that directly or indirectly use or rely upon, in any manner, any of the items listed in Paragraph (a) above;

due to the inability to correctly recognize, distinguish, interpret or accept one or more dates or times. An example is the inability of computer software to recognize the year 2000.

- (2) Any advice, consultation, design, evaluation, inspection, installation, maintenance, repair, replacement or supervision provided or done by you or for you to determine, rectify or test for, any potential or actual problems described in Paragraph (1) above.

However, if excluded loss or damage, as described in Paragraph (1) above, results in a "specified cause of loss" under Section I – Property, we will pay only for the loss or damage caused by such "specified cause of loss".

We will not pay for repair, replacement or modification of any items in Paragraph (1)(a) or (1)(b) to correct any deficiencies or change any features.

i. "Fungi", Wet Rot Or Dry Rot

Presence, growth, proliferation, spread or any activity of "fungi", wet rot or dry rot.

But if "fungi", wet rot or dry rot results in a "specified cause of loss", we will pay for the loss or damage caused by that "specified cause of loss".

This exclusion does not apply:

- (1) When "fungi", wet rot or dry rot results from fire or lightning; or
- (2) To the extent that coverage is provided in the Limited Coverage For "Fungi", Wet Rot Or Dry Rot Additional Coverage, with respect to loss or damage by a cause of loss other than fire or lightning.

j. Virus Or Bacteria

- (1) Any virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness or disease.
- (2) However, the exclusion in Paragraph (1) does not apply to loss or damage caused by or resulting from "fungi", wet rot or dry rot. Such loss or damage is addressed in Exclusion i.
- (3) With respect to any loss or damage subject to the exclusion in Paragraph (1), such exclusion supersedes any exclusion relating to "pollutants".

2. We will not pay for loss or damage caused by or resulting from any of the following:

a. Electrical Apparatus

Artificially generated electrical, magnetic or electromagnetic energy that damages, disturbs, disrupts or otherwise interferes with any:

- (1) Electrical or electronic wire, device, appliance, system or network; or
- (2) Device, appliance, system or network utilizing cellular or satellite technology.

For the purpose of this exclusion, electrical, magnetic or electromagnetic energy includes but is not limited to:

- (1) Electrical current, including arcing;
- (2) Electrical charge produced or conducted by a magnetic or electromagnetic field;
- (3) Pulse of electromagnetic energy; or
- (4) Electromagnetic waves or microwaves.

But if fire results, we will pay for the loss or damage caused by fire.

We will pay for loss or damage to "computer(s)" due to artificially generated electrical, magnetic or electromagnetic energy if such loss or damage is caused by or results from:

- (1) An occurrence that took place within 100 feet of the described premises; or
- (2) Interruption of electric power supply, power surge, blackout or brownout if the cause of such occurrence took place within 100 feet of the described premises.

b. Consequential Losses

Delay, loss of use or loss of market.

c. Smoke, Vapor, Gas

Smoke, vapor or gas from agricultural smudging or industrial operations.

d. Steam Apparatus

Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control. But if explosion of steam boilers, steam pipes, steam engines or steam turbines results in fire or combustion explosion, we will pay for the loss or damage caused by that fire or combustion explosion. We will also pay for loss or damage caused by or resulting from the explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.

e. Frozen Plumbing

Water, other liquids, powder or molten material that leaks or flows from plumbing, heating, air conditioning or other equipment (except fire protective systems) caused by or resulting from freezing, unless:

- (1) You do your best to maintain heat in the building or structure; or
- (2) You drain the equipment and shut off the supply if the heat is not maintained.

f. Dishonesty

Dishonest or criminal acts (including theft) by you, anyone else with an interest in the property, or any of your or their partners, "members", officers, "managers", employees (including temporary or leased employees), directors, trustees or authorized representatives, whether acting alone or in collusion with each other or with any other party; or theft by any person to whom you entrust the property for any purpose, whether acting alone or in collusion with any other party.

This exclusion:

- (1) Applies whether or not an act occurs during your normal hours of operation;
- (2) Does not apply to acts of destruction by your employees (including temporary or leased employees) or authorized representatives; but theft by your employees (including temporary or leased employees) or authorized representatives is not covered.

With respect to accounts receivable and "valuable papers and records", this exclusion does not apply to carriers for hire.

This exclusion does not apply to coverage that is provided under the Employee Dishonesty Optional Coverage.

g. False Pretense

Voluntary parting with any property by you or anyone else to whom you have entrusted the property if induced to do so by any fraudulent scheme, trick, device or false pretense.

h. Exposed Property

Rain, snow, ice or sleet to personal property in the open.

i. Collapse

(1) Collapse, including any of the following conditions of property or any part of the property:

- (a) An abrupt falling down or caving in;
- (b) Loss of structural integrity, including separation of parts of the property or property in danger of falling down or caving in; or
- (c) Any cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion as such condition relates to Paragraph **i.(1)(a)** or **i.(1)(b)**.

But if collapse results in a Covered Cause of Loss at the described premises, we will pay for the loss or damage caused by that Covered Cause of Loss.

(2) This Exclusion **i.** does not apply:

- (a) To the extent that coverage is provided under the Additional Coverage – Collapse; or
- (b) To collapse caused by one or more of the following:
 - (i) The "specified causes of loss";
 - (ii) Breakage of building glass;
 - (iii) Weight of rain that collects on a roof; or
 - (iv) Weight of people or personal property.

j. Pollution

We will not pay for loss or damage caused by or resulting from the discharge, dispersal, seepage, migration, release or escape of "pollutants" unless the discharge, dispersal, seepage, migration, release or escape is itself caused by any of the "specified causes of loss". But if the discharge, dispersal, seepage, migration, release or escape of "pollutants" results in a "specified cause of loss", we will pay for the loss or damage caused by that "specified cause of loss".

k. Neglect

Neglect of an insured to use all reasonable means to save and preserve property from further damage at and after the time of loss.

l. Other Types Of Loss

- (1) Wear and tear;
- (2) Rust or other corrosion, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;
- (3) Smog;
- (4) Settling, cracking, shrinking or expansion;
- (5) Nesting or infestation, or discharge or release of waste products or secretions, by insects, birds, rodents or other animals;
- (6) Mechanical breakdown, including rupture or bursting caused by centrifugal force.

This exclusion does not apply with respect to the breakdown of "computer(s)";
- (7) The following causes of loss to personal property:
 - (a) Dampness or dryness of atmosphere;
 - (b) Changes in or extremes of temperature; or
 - (c) Marring or scratching.

But if an excluded cause of loss that is listed in Paragraphs (1) through (7) above results in a "specified cause of loss" or building glass breakage, we will pay for the loss or damage caused by that "specified cause of loss" or building glass breakage.

m. Errors Or Omissions

Errors or omissions in:

- (1) Programming, processing or storing data, as described under "electronic data" or in any "computer" operations; or
- (2) Processing or copying "valuable papers and records".

However, we will pay for direct physical loss or damage caused by resulting fire or explosion if these causes of loss would be covered by this Coverage Form.

n. Installation, Testing, Repair

Errors or deficiency in design, installation, testing, maintenance, modification or repair of your "computer" system including "electronic data".

However, we will pay for direct physical loss or damage caused by resulting fire or explosion if these causes of loss would be covered by this Coverage Form.

o. Electrical Disturbance

Electrical or magnetic injury, disturbance or erasure of "electronic data", except as provided for under the Additional Coverages of Section I – Property.

However, we will pay for direct loss or damage caused by lightning.

p. Continuous Or Repeated Seepage Or Leakage Of Water

Continuous or repeated seepage or leakage of water, or the presence or condensation of humidity, moisture or vapor, that occurs over a period of 14 days or more.

3. We will not pay for loss or damage caused by or resulting from any of the following Paragraphs **a.** through **c.** But if an excluded cause of loss that is listed in Paragraphs **a.** through **c.** results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

a. Weather Conditions

Weather conditions. But this exclusion only applies if weather conditions contribute in any way with a cause or event excluded in Paragraph **B.1.** above to produce the loss or damage.

b. Acts Or Decisions

Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.

c. Negligent Work

Faulty, inadequate or defective:

- (1) Planning, zoning, development, surveying, siting;
- (2) Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;
- (3) Materials used in repair, construction, renovation or remodeling; or
- (4) Maintenance;

of part or all of any property on or off the described premises.

4. Additional Exclusion

The following applies only to the property specified in this Additional Exclusion:

Loss Or Damage To Products

We will not pay for loss or damage to any merchandise, goods or other product caused by or resulting from error or omission by any person or entity (including those having possession under an arrangement where work or a portion of the work is outsourced) in any stage of the development, production or use of the product, including planning, testing, processing, packaging, installation, maintenance or repair. This exclusion applies to any effect that compromises the form, substance or quality of the product. But if such error or omission results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

5. Business Income And Extra Expense Exclusions

a. We will not pay for:

(1) Any Extra Expense, or increase of Business Income loss, caused by or resulting from:

(a) Delay in rebuilding, repairing or replacing the property or resuming "operations", due to interference at the location of the rebuilding, repair or replacement by strikers or other persons; or

(b) Suspension, lapse or cancellation of any license, lease or contract. But if the suspension, lapse or cancellation is directly caused by the suspension of "operations", we will cover such loss that affects your Business Income during the "period of restoration" and any extension of the "period of restoration" in accordance with the terms of the Extended Business Income Additional Coverage.

(2) Any other consequential loss.

b. With respect to this exclusion, suspension means:

(1) The partial slowdown or complete cessation of your business activities; and

(2) That a part or all of the described premises is rendered untenable, if coverage for Business Income applies.

6. Accounts Receivable Exclusion

The following additional exclusion applies to the Accounts Receivable Coverage Extension:

We will not pay for:

a. Loss or damage caused by or resulting from alteration, falsification, concealment or destruction of records of accounts receivable done to conceal the wrongful giving, taking or withholding of "money", "securities" or other property.

This exclusion applies only to the extent of the wrongful giving, taking or withholding.

b. Loss or damage caused by or resulting from bookkeeping, accounting or billing errors or omissions.

c. Any loss or damage that requires any audit of records or any inventory computation to prove its factual existence.

C. Limits Of Insurance

1. The most we will pay for loss or damage in any one occurrence is the applicable Limits Of Insurance of Section I – Property shown in the Declarations.

2. The most we will pay for loss of or damage to outdoor signs attached to buildings is \$1,000 per sign in any one occurrence.

3. The amounts of insurance applicable to the Coverage Extensions and the following Additional Coverages apply in accordance with the terms of such coverages and are in addition to the Limits of Insurance of Section I - Property:

a. Fire Department Service Charge;

b. Pollutant Clean-up And Removal;

c. Increased Cost Of Construction;

d. Business Income From Dependent Properties;

e. Electronic Data; and

f. Interruption Of Computer Operations.

4. Building Limit – Automatic Increase

a. In accordance with Paragraph C.4.b., the Limit of Insurance for Buildings will automatically increase by 8%, unless a different percentage of annual increase is shown in the Declarations.

b. The amount of increase is calculated as follows:

(1) Multiply the Building limit that applied on the most recent of the policy inception date, the policy anniversary date or any other policy change amending the Building limit by:

(a) The percentage of annual increase shown in the Declarations, expressed as a decimal (example: 7% is .07); or

(b) .08, if no percentage of annual increase is shown in the Declarations; and

(2) Multiply the number calculated in accordance with **b.(1)** by the number of days since the beginning of the current policy year, or the effective date of the most recent policy change amending the Building limit, divided by 365.

Example

If:

The applicable Building limit is \$100,000. The annual percentage increase is 8%. The number of days since the beginning of the policy year (or last policy change) is 146.

The amount of increase is

$$\$100,000 \times .08 \times 146 \div 365 = \$3,200.$$

5. Business Personal Property Limit – Seasonal Increase

a. Subject to Paragraph **5.b.**, the Limit of Insurance for Business Personal Property is automatically increased by:

(1) The Business Personal Property – Seasonal Increase percentage shown in the Declarations; or

(2) 25% if no Business Personal Property – Seasonal Increase percentage is shown in the Declarations;

to provide for seasonal variances.

b. The increase described in Paragraph **5.a.** will apply only if the Limit Of Insurance shown for Business Personal Property in the Declarations is at least 100% of your average monthly values during the lesser of:

(1) The 12 months immediately preceding the date the loss or damage occurs; or

(2) The period of time you have been in business as of the date the loss or damage occurs.

D. Deductibles

1. We will not pay for loss or damage in any one occurrence until the amount of loss or damage exceeds the Deductible shown in the Declarations. We will then pay the amount of loss or damage in excess of the Deductible up to the applicable Limit of Insurance of Section **I** - Property.

2. Regardless of the amount of the Deductible, the most we will deduct from any loss or damage under all of the following Optional Coverages in any one occurrence is the Optional Coverage Deductible shown in the Declarations:

a. Money and Securities;

b. Employee Dishonesty;

c. Outdoor Signs; and

d. Forgery or Alteration.

But this Optional Coverage Deductible will not increase the Deductible shown in the Declarations. This Deductible will be used to satisfy the requirements of the Deductible in the Declarations.

3. No deductible applies to the following Additional Coverages:

a. Fire Department Service Charge;

b. Business Income;

c. Extra Expense;

d. Civil Authority; and

e. Fire Extinguisher Systems Recharge Expense.

E. Property Loss Conditions

1. Abandonment

There can be no abandonment of any property to us.

2. Appraisal

If we and you disagree on the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

a. Pay its chosen appraiser; and

b. Bear the other expenses of the appraisal and umpire equally.

If there is an appraisal, we will still retain our right to deny the claim.

3. Duties In The Event Of Loss Or Damage

a. You must see that the following are done in the event of loss or damage to Covered Property:

- (1) Notify the police if a law may have been broken.
- (2) Give us prompt notice of the loss or damage. Include a description of the property involved.
- (3) As soon as possible, give us a description of how, when and where the loss or damage occurred.
- (4) Take all reasonable steps to protect the Covered Property from further damage, and keep a record of your expenses necessary to protect the Covered Property, for consideration in the settlement of the claim. This will not increase the Limits of Insurance of Section I – Property. However, we will not pay for any subsequent loss or damage resulting from a cause of loss that is not a Covered Cause of Loss. Also, if feasible, set the damaged property aside and in the best possible order for examination.
- (5) At our request, give us complete inventories of the damaged and undamaged property. Include quantities, costs, values and amount of loss claimed.
- (6) As often as may be reasonably required, permit us to inspect the property proving the loss or damage and examine your books and records.

Also permit us to take samples of damaged and undamaged property for inspection, testing and analysis, and permit us to make copies from your books and records.
- (7) Send us a signed, sworn proof of loss containing the information we request to investigate the claim. You must do this within 60 days after our request. We will supply you with the necessary forms.
- (8) Cooperate with us in the investigation or settlement of the claim.
- (9) Resume all or part of your "operations" as quickly as possible.

- b. We may examine any insured under oath, while not in the presence of any other insured and at such times as may be reasonably required, about any matter relating to this insurance or the claim, including an insured's books and records. In the event of an examination, an insured's answers must be signed.

4. Legal Action Against Us

No one may bring a legal action against us under this insurance unless:

- a. There has been full compliance with all of the terms of this insurance; and
- b. The action is brought within two years after the date on which the direct physical loss or damage occurred.

5. Loss Payment

In the event of loss or damage covered by this policy:

- a. At our option, we will either:
 - (1) Pay the value of lost or damaged property;
 - (2) Pay the cost of repairing or replacing the lost or damaged property;
 - (3) Take all or any part of the property at an agreed or appraised value; or
 - (4) Repair, rebuild or replace the property with other property of like kind and quality, subject to Paragraph **d.(1)(e)** below.
- b. We will give notice of our intentions within 30 days after we receive the sworn proof of loss.
- c. We will not pay you more than your financial interest in the Covered Property.
- d. Except as provided in Paragraphs (2) through (7) below, we will determine the value of Covered Property as follows:
 - (1) At replacement cost without deduction for depreciation, subject to the following:
 - (a) If, at the time of loss, the Limit of Insurance on the lost or damaged property is 80% or more of the full replacement cost of the property immediately before the loss, we will pay the cost to repair or replace, after application of the deductible and without deduction for depreciation, but not more than the least of the following amounts:
 - (i) The Limit of Insurance under Section I – Property that applies to the lost or damaged property;

(ii) The cost to replace, on the same premises, the lost or damaged property with other property:

- i. Of comparable material and quality; and
- ii. Used for the same purpose; or

(iii) The amount that you actually spend that is necessary to repair or replace the lost or damaged property.

If a building is rebuilt at a new premises, the cost is limited to the cost which would have been incurred had the building been built at the original premises.

(b) If, at the time of loss, the Limit of Insurance applicable to the lost or damaged property is less than 80% of the full replacement cost of the property immediately before the loss, we will pay the greater of the following amounts, but not more than the Limit of Insurance that applies to the property:

- (i) The actual cash value of the lost or damaged property; or
- (ii) A proportion of the cost to repair or replace the lost or damaged property, after application of the deductible and without deduction for depreciation. This proportion will equal the ratio of the applicable Limit of Insurance to 80% of the full replacement cost of the property.

Example

The full replacement cost of property which suffers a total loss is \$100,000. The property is insured for \$70,000. 80% of the full replacement cost of the property immediately before the loss is \$80,000 (\$100,000 x .80 = \$80,000). A partial loss of \$25,000 is sustained. The amount of recovery is determined as follows:

Amount of recovery

$$\$70,000 \div \$80,000 = .875$$

$$.875 \times \$25,000 = \$21,875$$

(c) You may make a claim for loss or damage covered by this insurance on an actual cash value basis instead of on a replacement cost basis. In the event you elect to have loss or damage settled on an actual cash value basis, you may still make a claim on a replacement cost basis if you notify us of your intent to do so within 180 days after the loss or damage.

(d) We will not pay on a replacement cost basis for any loss or damage:

- (i) Until the lost or damaged property is actually repaired or replaced; and
- (ii) Unless the repair or replacement is made as soon as reasonably possible after the loss or damage.

However, if the cost to repair or replace the damaged building property is \$2,500 or less, we will settle the loss according to the provisions of Paragraphs **d.(1)(a)** and **d.(1)(b)** above whether or not the actual repair or replacement is complete.

(e) The cost to repair, rebuild or replace does not include the increased cost attributable to enforcement of or compliance with any ordinance or law regulating the construction, use or repair of any property.

(2) If the Actual Cash Value – Buildings option applies, as shown in the Declarations, Paragraph **(1)** above does not apply to Buildings. Instead, we will determine the value of Buildings at actual cash value.

(3) The following property at actual cash value:

- (a) Used or secondhand merchandise held in storage or for sale;
- (b) Property of others. However, if an item(s) of personal property of others is subject to a written contract which governs your liability for loss or damage to that item(s), then valuation of that item(s) will be based on the amount for which you are liable under such contract, but not to exceed the lesser of the replacement cost of the property or the applicable Limit of Insurance;

- (c) Household contents, except personal property in apartments or rooms furnished by you as landlord;
 - (d) Manuscripts; and
 - (e) Works of art, antiques or rare articles, including etchings, pictures, statuary, marble, bronzes, porcelain and bric-a-brac.
- (4) Glass at the cost of replacement with safety glazing material if required by law.
- (5) Tenants' improvements and betterments at:
- (a) Replacement cost if you make repairs promptly.
 - (b) A proportion of your original cost if you do not make repairs promptly. We will determine the proportionate value as follows:
 - (i) Multiply the original cost by the number of days from the loss or damage to the expiration of the lease; and
 - (ii) Divide the amount determined in (1) above by the number of days from the installation of improvements to the expiration of the lease.

If your lease contains a renewal option, the expiration of the renewal option period will replace the expiration of the lease in this procedure.
 - (c) Nothing if others pay for repairs or replacement.
- (6) Applicable only to the Optional Coverages:
- (a) "Money" at its face value; and
 - (b) "Securities" at their value at the close of business on the day the loss is discovered.
- (7) Applicable only to accounts receivable:
- (a) If you cannot accurately establish the amount of accounts receivable outstanding as of the time of loss or damage:
 - (i) We will determine the total of the average monthly amounts of accounts receivable for the 12 months immediately preceding the month in which the loss or damage occurs; and
 - (ii) We will adjust that total for any normal fluctuations in the amount of accounts receivable for the month in which the loss or damage occurred or for any demonstrated variance from the average for that month.
 - (b) The following will be deducted from the total amount of accounts receivable, however that amount is established:
 - (i) The amount of the accounts for which there is no loss or damage;
 - (ii) The amount of the accounts that you are able to reestablish or collect;
 - (iii) An amount to allow for probable bad debts that you are normally unable to collect; and
 - (iv) All unearned interest and service charges.
- e. Our payment for loss of or damage to personal property of others will only be for the account of the owners of the property. We may adjust losses with the owners of lost or damaged property if other than you. If we pay the owners, such payments will satisfy your claims against us for the owners' property. We will not pay the owners more than their financial interest in the Covered Property.
- f. We may elect to defend you against suits arising from claims of owners of property. We will do this at our expense.
- g. We will pay for covered loss or damage within 30 days after we receive the sworn proof of loss, provided you have complied with all of the terms of this policy, and:
- (1) We have reached agreement with you on the amount of loss; or
 - (2) An appraisal award has been made.

- h. A party wall is a wall that separates and is common to adjoining buildings that are owned by different parties. In settling covered losses involving a party wall, we will pay a proportion of the loss to the party wall based on your interest in the wall in proportion to the interest of the owner of the adjoining building. However, if you elect to repair or replace your building and the owner of the adjoining building elects not to repair or replace that building, we will pay you the full value of the loss to the party wall, subject to all applicable policy provisions including Limits of Insurance and all other provisions of this Loss Payment Condition. Our payment under the provisions of this paragraph does not alter any right of subrogation we may have against any entity, including the owner or insurer of the adjoining building, and does not alter the terms of the Transfer Of Rights Of Recovery Against Others To Us Condition in this policy.

6. Recovered Property

If either you or we recover any property after loss settlement, that party must give the other prompt notice. At your option, you may retain the property. But then you must return to us the amount we paid to you for the property. We will pay recovery expenses and the expenses to repair the recovered property, subject to the Limits of Insurance of Section I – Property.

7. Resumption Of Operations

We will reduce the amount of your:

- a. Business Income loss, other than Extra Expense, to the extent you can resume your "operations", in whole or in part, by using damaged or undamaged property (including merchandise or stock) at the described premises or elsewhere.
- b. Extra Expense loss to the extent you can return "operations" to normal and discontinue such Extra Expense.

8. Vacancy

a. Description Of Terms

- (1) As used in this Vacancy Condition, the term building and the term vacant have the meanings set forth in Paragraphs (a) and (b) below:
 - (a) When this policy is issued to a tenant, and with respect to that tenant's interest in Covered Property, building means the unit or suite rented or leased to the tenant. Such building is vacant when it does not contain enough business personal property to conduct customary operations.
 - (b) When this policy is issued to the owner or general lessee of a building, building means the entire building. Such building is vacant unless at least 31% of its total square footage is:
 - (i) Rented to a lessee or sublessee and used by the lessee or sublessee to conduct its customary operations; and/or
 - (ii) Used by the building owner to conduct customary operations.
- (2) Buildings under construction or renovation are not considered vacant.

b. Vacancy Provisions

If the building where loss or damage occurs has been vacant for more than 60 consecutive days before that loss or damage occurs:

- (1) We will not pay for any loss or damage caused by any of the following even if they are Covered Causes of Loss:
 - (a) Vandalism;
 - (b) Sprinkler leakage, unless you have protected the system against freezing;

- (c) Building glass breakage;
 - (d) Water damage;
 - (e) Theft; or
 - (f) Attempted theft.
- (2) With respect to Covered Causes of Loss other than those listed in Paragraphs (1)(a) through (1)(f) above, we will reduce the amount we would otherwise pay for the loss or damage by 15%.

F. Property General Conditions

1. Control Of Property

Any act or neglect of any person other than you beyond your direction or control will not affect this insurance.

The breach of any condition of this Coverage Form at any one or more locations will not affect coverage at any location where, at the time of loss or damage, the breach of condition does not exist.

2. Mortgageholders

- a. The term "mortgageholder" includes trustee.
- b. We will pay for covered loss of or damage to buildings or structures to each mortgageholder shown in the Declarations in their order of precedence, as interests may appear.
- c. The mortgageholder has the right to receive loss payment even if the mortgageholder has started foreclosure or similar action on the building or structure.
- d. If we deny your claim because of your acts or because you have failed to comply with the terms of this policy, the mortgageholder will still have the right to receive loss payment if the mortgageholder:
 - (1) Pays any premium due under this policy at our request if you have failed to do so;
 - (2) Submits a signed, sworn proof of loss within 60 days after receiving notice from us of your failure to do so; and
 - (3) Has notified us of any change in ownership, occupancy or substantial change in risk known to the mortgageholder.

All of the terms of this policy will then apply directly to the mortgageholder.

- e. If we pay the mortgageholder for any loss or damage and deny payment to you because of your acts or because you have failed to comply with the terms of this policy:

- (1) The mortgageholder's rights under the mortgage will be transferred to us to the extent of the amount we pay; and
- (2) The mortgageholder's right to recover the full amount of the mortgageholder's claim will not be impaired.

At our option, we may pay to the mortgageholder the whole principal on the mortgage plus any accrued interest. In this event, your mortgage and note will be transferred to us and you will pay your remaining mortgage debt to us.

- f. If we cancel this policy, we will give written notice to the mortgageholder at least:
 - (1) 10 days before the effective date of cancellation if we cancel for your nonpayment of premium; or
 - (2) 30 days before the effective date of cancellation if we cancel for any other reason.
- g. If we elect not to renew this policy, we will give written notice to the mortgageholder at least 10 days before the expiration date of this policy.

3. No Benefit To Bailee

No person or organization, other than you, having custody of Covered Property will benefit from this insurance.

4. Policy Period, Coverage Territory

Under Section I – Property:

- a. We cover loss or damage commencing:
 - (1) During the policy period shown in the Declarations; and
 - (2) Within the coverage territory or, with respect to property in transit, while it is between points in the coverage territory.
- b. The coverage territory is:
 - (1) The United States of America (including its territories and possessions);
 - (2) Puerto Rico; and
 - (3) Canada.

G. Optional Coverages

If shown as applicable in the Declarations, the following Optional Coverages also apply. These coverages are subject to the terms and conditions applicable to property coverage in this policy, except as provided below:

1. Outdoor Signs

- a. We will pay for direct physical loss of or damage to all outdoor signs at the described premises:
 - (1) Owned by you; or
 - (2) Owned by others but in your care, custody or control.
- b. Paragraph **A.3.**, Covered Causes Of Loss and Paragraph **B.**, Exclusions in Section **I – Property** do not apply to this Optional Coverage, except for:
 - (1) Paragraph **B.1.c.**, Governmental Action;
 - (2) Paragraph **B.1.d.**, Nuclear Hazard; and
 - (3) Paragraph **B.1.f.**, War And Military Action.
- c. We will not pay for loss or damage caused by or resulting from:
 - (1) Wear and tear;
 - (2) Hidden or latent defect;
 - (3) Rust;
 - (4) Corrosion; or
 - (5) Mechanical breakdown.
- d. The most we will pay for loss or damage in any one occurrence is the Limit Of Insurance for Outdoor Signs shown in the Declarations.
- e. The provisions of this Optional Coverage supersede all other references to outdoor signs in this policy.

2. Money And Securities

- a. We will pay for loss of "money" and "securities" used in your business while at a bank or savings institution, within your living quarters or the living quarters of your partners or any employee (including a temporary or leased employee) having use and custody of the property, at the described premises, or in transit between any of these places, resulting directly from:
 - (1) Theft, meaning any act of stealing;
 - (2) Disappearance; or
 - (3) Destruction.

- b. In addition to the Limitations and Exclusions applicable to Section **I – Property**, we will not pay for loss:

- (1) Resulting from accounting or arithmetical errors or omissions;
- (2) Due to the giving or surrendering of property in any exchange or purchase; or
- (3) Of property contained in any "money"-operated device unless the amount of "money" deposited in it is recorded by a continuous recording instrument in the device.

- c. The most we will pay for loss in any one occurrence is:

- (1) The limit shown in the Declarations for Inside the Premises for "money" and "securities" while:
 - (a) In or on the described premises; or
 - (b) Within a bank or savings institution; and
- (2) The limit shown in the Declarations for Outside the Premises for "money" and "securities" while anywhere else.

- d. All loss:

- (1) Caused by one or more persons; or
 - (2) Involving a single act or series of related acts;
- is considered one occurrence.

- e. You must keep records of all "money" and "securities" so we can verify the amount of any loss or damage.

3. Employee Dishonesty

- a. We will pay for direct loss of or damage to Business Personal Property and "money" and "securities" resulting from dishonest acts committed by any of your employees acting alone or in collusion with other persons (except you or your partner) with the manifest intent to:
 - (1) Cause you to sustain loss or damage; and also
 - (2) Obtain financial benefit (other than salaries, commissions, fees, bonuses, promotions, awards, profit sharing, pensions or other employee benefits earned in the normal course of employment) for:
 - (a) Any employee; or
 - (b) Any other person or organization.

- b.** We will not pay for loss or damage:
- (1)** Resulting from any dishonest or criminal act that you or any of your partners or "members" commit whether acting alone or in collusion with other persons.
 - (2)** Resulting from any dishonest act committed by any of your employees (except as provided in Paragraph **a.**), "managers" or directors:
 - (a)** Whether acting alone or in collusion with other persons; or
 - (b)** While performing services for you or otherwise.
 - (3)** The only proof of which as to its existence or amount is:
 - (a)** An inventory computation; or
 - (a)** A profit and loss computation.
 - (4)** Caused by an employee if the employee had also committed theft or any other dishonest act prior to the effective date of this policy and you or any of your partners, "members", "managers", officers, directors or trustees, not in collusion with the employee, learned of that theft or dishonest act prior to the policy period shown in the Declarations.
- c.** The most we will pay for loss or damage in any one occurrence is the Limit Of Insurance for Employee Dishonesty shown in the Declarations.
- d.** All loss or damage:
- (1)** Caused by one or more persons; or
 - (2)** Involving a single act or series of acts; is considered one occurrence.
- e.** If any loss is covered:
- (1)** Partly by this insurance; and
 - (2)** Partly by any prior cancelled or terminated insurance that we or any affiliate had issued to you or any predecessor in interest;
- the most we will pay is the larger of the amount recoverable under this insurance or the prior insurance.
- We will pay only for loss or damage you sustain through acts committed or events occurring during the policy period. Regardless of the number of years this policy remains in force or the number of premiums paid, no Limit of Insurance cumulates from year to year or period to period.
- f.** This Optional Coverage is cancelled as to any employee immediately upon discovery by:
- (1)** You; or
 - (2)** Any of your partners, "members", "managers", officers or directors not in collusion with the employee;
- of any dishonest act committed by that employee before or after being hired by you.
- g.** We will pay only for covered loss or damage sustained during the policy period and discovered no later than one year from the end of the policy period.
- h.** If you (or any predecessor in interest) sustained loss or damage during the policy period of any prior insurance that you could have recovered under that insurance except that the time within which to discover loss or damage had expired, we will pay for it under this Optional Coverage, provided:
- (1)** This Optional Coverage became effective at the time of cancellation or termination of the prior insurance; and
 - (2)** The loss or damage would have been covered by this Optional Coverage had it been in effect when the acts or events causing the loss or damage were committed or occurred.
- i.** The insurance under Paragraph **h.** above is part of, not in addition to, the Limit of Insurance applying to this Optional Coverage and is limited to the lesser of the amount recoverable under:
- (1)** This Optional Coverage as of its effective date; or
 - (2)** The prior insurance had it remained in effect.
- j.** With respect to the Employee Dishonesty Optional Coverage in Paragraph **G.3.**, employee means:
- (1)** Any natural person:
 - (a)** While in your service or for 30 days after termination of service;
 - (b)** Who you compensate directly by salary, wages or commissions; and
 - (c)** Who you have the right to direct and control while performing services for you;

(2) Any natural person who is furnished temporarily to you:

(a) To substitute for a permanent employee, as defined in Paragraph (1) above, who is on leave; or

(b) To meet seasonal or short-term workload conditions;

(3) Any natural person who is leased to you under a written agreement between you and a labor leasing firm, to perform duties related to the conduct of your business, but does not mean a temporary employee as defined in Paragraph (2) above;

(4) Any natural person who is a former employee, director, partner, member, manager, representative or trustee retained as a consultant while performing services for you; or

(5) Any natural person who is a guest student or intern pursuing studies or duties, excluding, however, any such person while having care and custody of property outside any building you occupy in conducting your business.

But employee does not mean:

(1) Any agent, broker, factor, commission merchant, consignee, independent contractor or representative of the same general character; or

(2) Any "manager", director or trustee except while performing acts coming within the usual duties of an employee.

4. Equipment Breakdown Protection Coverage

a. We will pay for direct loss of or damage to Covered Property caused by or resulting from a mechanical breakdown or electrical failure to pressure, mechanical or electrical machinery and equipment.

Mechanical breakdown or electrical failure to pressure, mechanical or electrical machinery and equipment does not mean any:

(1) Malfunction including but not limited to adjustment, alignment, calibration, cleaning or modification;

(2) Leakage at any valve, fitting, shaft seal, gland packing, joint or connection;

(3) Damage to any vacuum tube, gas tube, or brush; or

(4) The functioning of any safety or protective device.

b. Paragraphs **A.4.a.(1)** and **A.4.a.(2)**, Limitations, do not apply to this Optional Coverage.

c. With respect to the coverage provided by this Optional Coverage, the following exclusions in Paragraph **B. Exclusions** do not apply:

(1) Paragraph **B.2.a.**, Electrical Apparatus;

(2) Paragraph **B.2.d.**, Steam Apparatus; and

(3) Paragraph **B.2.i.(6)**, Mechanical Breakdown.

d. With respect to the coverage provided by this Optional Coverage, Paragraph **G.1.c.(5)** of the **Outdoor Signs Optional Coverage** does not apply.

e. If a dollar deductible is shown in the Declarations for this Optional Coverage, we will first subtract the applicable deductible amount from any loss we would otherwise pay. We will then pay the amount of loss in excess of the applicable deductible up to the applicable limit for this coverage.

If no optional deductible is chosen for this Optional Coverage, the Property Deductible shown in the Declarations applies.

f. With respect to Additional Coverages **5.f.** Business Income and **5.g.** Extra Expense, if the 72-hour time period in the definition of "period of restoration" (hereinafter referred to as time deductible) is amended for this Optional Coverage as shown in the Declarations, we will not pay for any Business Income loss that occurs during the consecutive number of hours shown as the time deductible in the Declarations immediately following a mechanical breakdown or electrical failure. If a time deductible is shown in days, each day shall mean 24 consecutive hours.

With respect to the coverage provided by this Optional Coverage, any time deductible shown in the Declarations for Equipment Breakdown Protection Coverage supersedes any time deductible otherwise applicable to the Business Income coverage provided by this policy.

g. With respect to the coverage provided by this Optional Coverage, Paragraph **H. Property Definitions** is amended as follows:

1. "Computer" means:

a. Programmable electronic equipment that is used to store, retrieve and process data; and

- b. Associated peripheral equipment that provides communication, including input and output functions such as printing and auxiliary functions such as data transmission.

"Computer" includes those used to operate production-type machinery or equipment.

- h. Whenever any covered pressure, mechanical or electrical machinery and equipment is found to be in, or exposed to, a dangerous condition, any of our representatives may suspend coverage provided by this Optional Coverage for loss from a mechanical breakdown or electrical failure to that pressure, mechanical or electrical machinery and equipment.

However, coverage provided by this Optional Coverage may be reinstated for loss from a mechanical breakdown or electrical failure to that pressure, mechanical or electrical machinery and equipment if the reasons for the suspension are found by any of our representatives to no longer exist.

We may suspend or reinstate this Optional coverage by mailing or delivering a written notification regarding the suspension or reinstatement to:

- (1) Your last known address; or
- (2) The address where the pressure, mechanical or electrical machinery and equipment is located.

This notification will indicate the effective date of the suspension or reinstatement.

If the coverage provided by this Optional Coverage is not reinstated, you will get a pro rata refund of premium. But the suspension will be effective even if we have not yet made or offered a refund.

H. Property Definitions

1. "Computer" means:

- a. Programmable electronic equipment that is used to store, retrieve and process data; and
- b. Associated peripheral equipment that provides communication, including input and output functions such as printing and auxiliary functions such as data transmission.

"Computer" does not include those used to operate production-type machinery or equipment.

- 2. "Counterfeit money" means an imitation of "money" that is intended to deceive and to be taken as genuine.
- 3. "Electronic data" means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a "computer" or device connected to it, which enable the "computer" or device to receive, process, store, retrieve or send data.
- 4. "Fungi" means any type or form of fungus, including mold or mildew, and any mycotoxins, spores, scents or by-products produced or released by fungi.
- 5. "Manager" means a person serving in a directorial capacity for a limited liability company.
- 6. "Member" means an owner of a limited liability company represented by its membership interest, who also may serve as a "manager".
- 7. "Money" means:
 - a. Currency, coins and bank notes in current use and having a face value; and
 - b. Traveler's checks, register checks and money orders held for sale to the public.
- 8. "Operations" means your business activities occurring at the described premises.
- 9. "Period of restoration":
 - a. Means the period of time that:
 - (1) Begins:
 - (a) 72 hours after the time of direct physical loss or damage for Business Income Coverage; or
 - (b) Immediately after the time of direct physical loss or damage for Extra Expense Coverage;

caused by or resulting from any Covered Cause of Loss at the described premises; and

(2) Ends on the earlier of:

(a) The date when the property at the described premises should be repaired, rebuilt or replaced with reasonable speed and similar quality; or

(b) The date when business is resumed at a new permanent location.

b. Does not include any increased period required due to the enforcement of or compliance with any ordinance or law that:

(1) Regulates the construction, use or repair, or requires the tearing down of any property; or

(2) Requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

The expiration date of this policy will not cut short the "period of restoration".

10. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

11. "Securities" means negotiable and nonnegotiable instruments or contracts representing either "money" or other property and includes:

a. Tokens, tickets, revenue and other stamps (whether represented by actual stamps or unused value in a meter) in current use; and

b. Evidences of debt issued in connection with credit or charge cards, which cards are not issued by you;

but does not include "money".

12. "Specified causes of loss" means the following:

Fire; lightning; explosion; windstorm or hail; smoke; aircraft or vehicles; riot or civil commotion; vandalism; leakage from fire extinguishing equipment; sinkhole collapse; volcanic action; falling objects; weight of snow, ice or sleet; water damage.

a. Sinkhole collapse means the sudden sinking or collapse of land into underground empty spaces created by the action of water on limestone or dolomite. This cause of loss does not include:

(1) The cost of filling sinkholes; or

(2) Sinking or collapse of land into man-made underground cavities.

b. Falling objects does not include loss of or damage to:

(1) Personal property in the open; or

(2) The interior of a building or structure, or property inside a building or structure, unless the roof or an outside wall of the building or structure is first damaged by a falling object.

c. Water damage means:

(1) Accidental discharge or leakage of water or steam as the direct result of the breaking apart or cracking of any part of a system or appliance (other than a sump system including its related equipment and parts) containing water or steam; and

(2) Accidental discharge or leakage of water or waterborne material as the direct result of the breaking apart or cracking of a water or sewer pipe that is located off the described premises and is part of a municipal potable water supply system or municipal sanitary sewer system, if the breakage or cracking is caused by wear and tear.

But water damage does not include loss or damage otherwise excluded under the terms of the Water Exclusion. Therefore, for example, there is no coverage in the situation in which discharge or leakage of water results from the breaking apart or cracking of a pipe which was caused by or related to weather-induced flooding, even if wear and tear contributed to the breakage or cracking. As another example, and also in accordance with the terms of the Water Exclusion, there is no coverage for loss or damage caused by or related to weather-induced flooding which follows or is exacerbated by pipe breakage or cracking attributable to wear and tear.

To the extent that accidental discharge or leakage of water falls within the criteria set forth in **c.(1)** or **c.(2)** of this definition of "specified causes of loss", such water is not subject to the provisions of the Water Exclusion which preclude coverage for surface water or water under the ground surface.

13. "Stock" means merchandise held in storage or for sale, raw materials and in-process or finished goods, including supplies used in their packing or shipping.

14. "Valuable papers and records" means inscribed, printed or written:

- a. Documents;
- b. Manuscripts; and
- c. Records;

including abstracts, books, deeds, drawings, films, maps or mortgages.

But "valuable papers and records" does not mean "money" or "securities".

SECTION II – LIABILITY

A. Coverages

1. Business Liability

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury", "property damage" or "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" or any offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Paragraph **D. Liability And Medical Expenses Limits Of Insurance in Section II – Liability;** and
- (2) Our right and duty to defend end when we have used up the applicable Limit of Insurance in the payment of judgments or settlements or medical expenses.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Paragraph **f. Coverage Extension – Supplementary Payments.**

- b. This insurance applies:

- (1) To "bodily injury" and "property damage" only if:
 - (a) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
 - (b) The "bodily injury" or "property damage" occurs during the policy period; and

- (c) Prior to the policy period, no insured listed under Paragraph **C.1. Who Is An Insured** and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known before the policy period.

- (2) To "personal and advertising injury" caused by an offense arising out of your business, but only if the offense was committed in the "coverage territory" during the policy period.

- c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph **C.1. Who Is An Insured** or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of "bodily injury" or "property damage" after the end of the policy period.
- d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph **C.1. Who Is An Insured** or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:
 - (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
 - (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
 - (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.
- e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

f. Coverage Extension – Supplementary Payments

(1) We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

- (a) All expenses we incur.
- (b) Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which Business Liability Coverage for "bodily injury" applies. We do not have to furnish these bonds.
- (c) The cost of bonds to release attachments, but only for bond amounts within our Limit of Insurance. We do not have to furnish these bonds.
- (d) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
- (e) All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
- (f) Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the Limit of Insurance, we will not pay any prejudgment interest based on that period of time after the offer.
- (g) All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within our Limit of Insurance.

These payments will not reduce the limit of liability.

(2) If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

- (a) The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
- (b) This insurance applies to such liability assumed by the insured;
- (c) The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
- (d) The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
- (e) The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- (f) The indemnitee:
 - (i) Agrees in writing to:
 - i. Cooperate with us in the investigation, settlement or defense of the "suit";
 - ii. Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
 - iii. Notify any other insurer whose coverage is available to the indemnitee; and

- iv. Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
- (ii) Provides us with written authorization to:
 - i. Obtain records and other information related to the "suit"; and
 - ii. Conduct and control the defense of the indemnitee in such "suit".
- (3) So long as the conditions in Paragraph (2) are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph B.1.b.(2) Exclusions in Section II – Liability, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the Limits of Insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

- (a) We have used up the applicable Limit of Insurance in the payment of judgments or settlements; or
- (b) The conditions set forth above, or the terms of the agreement described in Paragraph (2)(f) above, are no longer met.

2. Medical Expenses

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:
 - (1) On premises you own or rent;
 - (2) On ways next to premises you own or rent; or
 - (3) Because of your operations;
 provided that:
 - (a) The accident takes place in the "coverage territory" and during the policy period;
 - (b) The expenses are incurred and reported to us within one year of the date of the accident; and

- (c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.
- b. We will make these payments regardless of fault. These payments will not exceed the Limits of Insurance of Section II – Liability. We will pay reasonable expenses for:
 - (1) First aid administered at the time of an accident;
 - (2) Necessary medical, surgical, X-ray and dental services, including prosthetic devices; and
 - (3) Necessary ambulance, hospital, professional nursing and funeral services.

B. Exclusions

1. Applicable To Business Liability Coverage

This insurance does not apply to:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:
 - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and

- (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies even if the claims allege negligence or other wrongdoing in:

- (a) The supervision, hiring, employment, training or monitoring of others by an insured; or
- (b) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

if the "occurrence" which caused the "bodily injury" or "property damage", involved that which is described in Paragraph (1), (2) or (3) above.

However, this exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
 - (a) Employment by the insured; or

- (b) Performing duties related to the conduct of the insured's business; or

- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

f. Pollution

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

- (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:

- (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;

- (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";

- (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
 - (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:
 - (i) Any insured; or
 - (ii) Any person or organization for whom you may be legally responsible;
 - (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:
 - (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;
 - (ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or
 - (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire"; or
 - (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".
- (2) Any loss, cost or expense arising out of any:
- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
 - (b) Claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".
- However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement or such claim or "suit" by or on behalf of a governmental authority.
- g. Aircraft, Auto Or Watercraft**
- "Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
 - (a) Less than 51 feet long; and
 - (b) Not being used to carry persons or property for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or
- (5) "Bodily injury" or "property damage" arising out of:
 - (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance or motor vehicle registration law where it is licensed or principally garaged; or
 - (b) The operation of any of the following machinery or equipment:
 - (i) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
 - (ii) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition or stunting activity.

i. War

"Bodily injury", "property damage" or "personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by government authority in hindering or defending against any of these.

j. Professional Services

"Bodily injury", "property damage" or "personal and advertising injury" caused by the rendering or failure to render any professional service. This includes but is not limited to:

- (1) Legal, accounting or advertising services;
- (2) Preparing, approving, or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications;
- (3) Supervisory, inspection or engineering services;
- (4) Medical, surgical, dental, X-ray or nursing services treatment, advice or instruction;
- (5) Any health or therapeutic service treatment, advice or instruction;
- (6) Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement or personal grooming;

- (7) Optometry or optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;
- (8) Body piercing services; and
- (9) Services in the practice of pharmacy.

This exclusion applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering or failure to render of any professional service.

k. Damage To Property

"Property damage" to:

- (1) Property you own, rent or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractor or subcontractor working directly or indirectly on your behalf is performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of seven or fewer consecutive days. A separate Limit of Insurance applies to Damage To Premises Rented To You as described in Paragraph D. Liability And Medical Expenses Limits Of Insurance in Section II – Liability.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

l. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

m. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

n. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

o. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

p. Personal And Advertising Injury

"Personal and advertising injury":

- (1) Caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury";
- (2) Arising out of oral or written publication, in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity;
- (3) Arising out of oral or written publication, in any manner, of material whose first publication took place before the beginning of the policy period;
- (4) For which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement;
- (5) Arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement";
- (6) Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement";
- (7) Arising out of the wrong description of the price of goods, products or services stated in your "advertisement";
- (8) Committed by an insured whose business is:
 - (a) Advertising, broadcasting, publishing or telecasting;
 - (b) Designing or determining content of web sites for others; or
 - (c) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs **14.a.**, **b.** and **c.** of "personal and advertising injury" under Paragraph **F. Liability And Medical Expenses Definitions.**

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, by itself, is not considered the business of advertising, broadcasting, publishing or telecasting;

- (9) Arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time;
 - (10) With respect to any loss, cost or expense arising out of any:
 - (a) Request, demand or order that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
 - (b) Claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants";
 - (11) Arising out of an electronic chatroom or bulletin board the insured hosts, owns or over which the insured exercises control;
 - (12) Arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights. Under this exclusion, such other intellectual property rights do not include the use of another's advertising idea in your "advertisement".
- However, this exclusion does not apply to infringement, in your "advertisement", of copyright, trade dress or slogan;
- (13) Arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatags, or any other similar tactics to mislead another's potential customers.

q. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

However, this exclusion does not apply to liability for damages because of "bodily injury".

As used in this exclusion, electronic data means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive, process, store, retrieve or send data.

r. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

s. Recording And Distribution Of Material Or Information In Violation Of Law

"Bodily injury", "property damage" or "personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transaction Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

Exclusions **c., d., e., f., g., h., i., k., l., m., n.** and **o.** in Section II – Liability do not apply to damage by fire to premises while rented to you, or temporarily occupied by you with permission of the owner. A separate Damage To Premises Rented To You Limit of Insurance applies to this coverage as described in Paragraph **D. Liability And Medical Expenses Limits of Insurance** in Section II – Liability.

2. Applicable To Medical Expenses Coverage

We will not pay expenses for "bodily injury":

- a. To any insured, except "volunteer workers".
- b. To a person hired to do work for or on behalf of any insured or a tenant of any insured.
- c. To a person injured on that part of premises you own or rent that the person normally occupies.
- c. To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.
- e. To a person injured while practicing, instructing or participating in any physical exercises or games, sports or athletic contests.
- f. Included within the "products-completed operations hazard".
- g. Excluded under Business Liability Coverage.

3. Applicable To Both Business Liability Coverage And Medical Expenses Coverage - Nuclear Energy Liability Exclusion

This insurance does not apply:

- a. Under Business Liability Coverage, to "bodily injury" or "property damage":
 - (1) With respect to which an insured under the policy is also an insured under a nuclear energy liability policy issued by the Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or

- (2) Resulting from the "hazardous properties" of "nuclear material" and with respect to which:
- (a) Any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof; or
 - (b) The insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
- b. Under Medical Expenses Coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear material" and arising out of the operation of a "nuclear facility" by any person or organization.
- c. Under Business Liability Coverage, to "bodily injury" or "property damage" resulting from the "hazardous properties" of the "nuclear material"; if:
- (1) The "nuclear material":
 - (a) Is at any "nuclear facility" owned by, or operated by or on behalf of, an insured; or
 - (b) Has been discharged or dispersed therefrom;
 - (2) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an insured; or
 - (3) The "bodily injury" or "property damage" arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility"; but if such facility is located within the United States of America, its territories or possessions or Canada, this Exclusion (3) applies only to "property damage" to such "nuclear facility" and any property thereat.
- d. As used in this exclusion:
- (1) "By-product material" has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof;
 - (2) "Hazardous properties" include radioactive, toxic or explosive properties;
 - (3) "Nuclear facility" means:
 - (a) Any "nuclear reactor";
 - (b) Any equipment or device designed or used for:
 - (i) Separating the isotopes of uranium or plutonium;
 - (ii) Processing or utilizing "spent fuel"; or
 - (iii) Handling, processing or packaging "waste";
 - (c) Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
 - (d) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of "waste";

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;
 - (4) "Nuclear material" means "source material", "special nuclear material" or "by-product material";
 - (5) "Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;
 - (6) "Property damage" includes all forms of radioactive contamination of property;
 - (7) "Source material" has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof;
 - (8) "Special nuclear material" has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof;
 - (9) "Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor";

(10) "Waste" means any waste material:

- (a)** Containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content; and
- (b)** Resulting from the operation by any person or organization of any "nuclear facility" included under Paragraphs **(a)** and **(b)** of the definition of "nuclear facility".

C. Who Is An Insured

1. If you are designated in the Declarations as:

- a.** An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b.** A partnership or joint venture, you are an insured. Your members, your partners and their spouses are also insureds, but only with respect to the conduct of your business.
- c.** A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d.** An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
- e.** A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

- a.** Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:

(1) "Bodily injury" or "personal and advertising injury":

- (a)** To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), or to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
- (b)** To the spouse, child, parent, brother or sister of that co-"employee" as a consequence of Paragraph **(a)** above;
- (c)** For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph **(a)** or **(b)**; or
- (d)** Arising out of his or her providing or failing to provide professional health care services.

(2) "Property damage" to property:

- (a)** Owned, occupied or used by;

(b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

- b. Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.
- c. Any person or organization having proper temporary custody of your property if you die, but only:
 - (1) With respect to liability arising out of the maintenance or use of that property; and
 - (2) Until your legal representative has been appointed.
- d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this policy.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

D. Liability And Medical Expenses Limits Of Insurance

1. The Limits of Insurance of Section II – Liability shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
 - a. Insureds;
 - b. Claims made or "suits" brought; or
 - c. Persons or organizations making claims or bringing "suits".
2. The most we will pay for the sum of all damages because of all:
 - a. "Bodily injury", "property damage" and medical expenses arising out of any one "occurrence"; and
 - b. "Personal and advertising injury" sustained by any one person or organization;

is the Liability and Medical Expenses limit shown in the Declarations. But the most we will pay for all medical expenses because of "bodily injury" sustained by any one person is the Medical Expenses limit shown in the Declarations.

3. The most we will pay under Business Liability Coverage for damages because of "property damage" to a premises while rented to you or in the case of fire while rented to you or temporarily occupied by you with permission of the owner is the applicable Damage To Premises Rented To You limit shown for that premises in the Declarations. For a premises temporarily occupied by you, the applicable limit will be the highest Damage To Premises Rented To You limit shown in the Declarations.

4. Aggregate Limits

The most we will pay for:

- a. All "bodily injury" and "property damage" that is included in the "products-completed operations hazard" is twice the Liability and Medical Expenses limit.
- b. All:
 - (1) "Bodily injury" and "property damage" except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard";
 - (2) Plus medical expenses;
 - (3) Plus all "personal and advertising injury" caused by offenses committed;

is twice the Liability and Medical Expenses limit.

Subject to Paragraph a. or b. above, whichever applies, the Damage To Premises Rented To You limit is the most we will pay for damages because of "property damage" to any one premises, while rented to you, or in the case of fire, while rented to you or temporarily occupied by you with permission of the owner.

The Limits of Insurance of Section II – Liability apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

E. Liability And Medical Expenses General Conditions

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this policy.

2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

b. If a claim is made or "suit" is brought against any insured, you must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.

c. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization that may be liable to the insured because of injury or damage to which this insurance may also apply.

d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

3. Legal Action Against Us

No person or organization has a right under this policy:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this policy unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this policy or that are in excess of the applicable Limit of Insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

4. Separation Of Insureds

Except with respect to the Limits of Insurance of Section II – Liability, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

F. Liability And Medical Expenses Definitions

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:

- a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
- b. Regarding web sites, only that part of a web site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.

2. "Auto" means:

- a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
- b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance or motor vehicle registration law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.

4. "Coverage territory" means:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;

- b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in Paragraph **a.** above; or
- c. All other parts of the world if the injury or damage arises out of:
 - (1) Goods or products made or sold by you in the territory described in Paragraph **a.** above;
 - (2) The activities of a person whose home is in the territory described in Paragraph **a.** above, but is away for a short time on your business; or
 - (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication;

provided the insured's responsibility to pay damages is determined in a "suit" on the merits in the territory described in Paragraph **a.** above or in a settlement we agree to.

- 5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
- 6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, bylaws or any other similar governing document.
- 7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
- 8. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
 - a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
 - b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by:

 - (1) The repair, replacement, adjustment or removal of "your product" or "your work"; or
 - (2) Your fulfilling the terms of the contract or agreement.
- 9. "Insured contract" means:
 - a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
 - b. A sidetrack agreement;
 - c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
 - d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
 - e. An elevator maintenance agreement;
 - f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph **f.** does not include that part of any contract or agreement:

 - (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;
 - (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
 - (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in Paragraph **(2)** above and supervisory, inspection or engineering services.
- 10. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

11. "Loading or unloading" means the handling of property:

- a.** After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
- b.** While it is in or on an aircraft, watercraft or "auto"; or
- c.** While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

12. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

- a.** Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b.** Vehicles maintained for use solely on or next to premises you own or rent;
- c.** Vehicles that travel on crawler treads;
- d.** Vehicles, whether self-propelled or not, on which are permanently mounted:
 - (1)** Power cranes, shovels, loaders, diggers or drills; or
 - (2)** Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e.** Vehicles not described in Paragraph **a.**, **b.**, **c.** or **d.** above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - (1)** Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - (2)** Cherry pickers and similar devices used to raise or lower workers;
- f.** Vehicles not described in Paragraph **a.**, **b.**, **c.** or **d.** above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

(1) Equipment designed primarily for:

- (a)** Snow removal;
- (b)** Road maintenance, but not construction or resurfacing; or
- (c)** Street cleaning;

(2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

(3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance or motor vehicle registration law where they are licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law or motor vehicle registration law are considered "autos".

13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

14. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

- a.** False arrest, detention or imprisonment;
- b.** Malicious prosecution;
- c.** The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
- d.** Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e.** Oral or written publication, in any manner, of material that violates a person's right of privacy;

- f. The use of another's advertising idea in your "advertisement"; or
- g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".

15. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

16. "Products-completed operations hazard":

- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

(1) Products that are still in your physical possession; or

(2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:

(a) When all of the work called for in your contract has been completed.

(b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.

(c) When that part of the work done at the job site has been put to its intended use by any other person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

The "bodily injury" or "property damage" must occur away from premises you own or rent, unless your business includes the selling, handling or distribution of "your product" for consumption on premises you own or rent.

- b. Does not include "bodily injury" or "property damage" arising out of:

(1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured; or

(2) The existence of tools, uninstalled equipment or abandoned or unused materials.

17. "Property damage" means:

a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or

b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, electronic data is not tangible property.

As used in this definition, electronic data means information, facts or programs stored as, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

18. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage", or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or

b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

19. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

20. "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

21. "Your product":

a. Means:

(1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:

(a) You;

(b) Others trading under your name; or

- (c) A person or organization whose business or assets you have acquired; and
 - (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
 - b. Includes:
 - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
 - (2) The providing of or failure to provide warnings or instructions.
 - c. Does not include vending machines or other property rented to or located for the use of others but not sold.
22. "Your work":
- a. Means:
 - (1) Work or operations performed by you or on your behalf; and
 - (2) Materials, parts or equipment furnished in connection with such work or operations.
 - b. Includes:
 - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
 - (2) The providing of or failure to provide warnings or instructions.

SECTION III – COMMON POLICY CONDITIONS (APPLICABLE TO SECTION I – PROPERTY AND SECTION II – LIABILITY)

A. Cancellation

- 1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
- 2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
 - a. Five days before the effective date of cancellation if any one of the following conditions exists at any building that is Covered Property in this policy:
 - (1) The building has been vacant or unoccupied 60 or more consecutive days. This does not apply to:
 - (a) Seasonal unoccupancy; or
 - (b) Buildings in the course of construction, renovation or addition.

Buildings with 65% or more of the rental units or floor area vacant or unoccupied are considered unoccupied under this provision.

- (2) After damage by a Covered Cause of Loss, permanent repairs to the building:
 - (a) Have not started; and
 - (b) Have not been contracted for; within 30 days of initial payment of loss.
- (3) The building has:
 - (a) An outstanding order to vacate;
 - (b) An outstanding demolition order; or
 - (c) Been declared unsafe by governmental authority.
- (4) Fixed and salvageable items have been or are being removed from the building and are not being replaced. This does not apply to such removal that is necessary or incidental to any renovation or remodeling.
- (5) Failure to:
 - (a) Furnish necessary heat, water, sewer service or electricity for 30 consecutive days or more, except during a period of seasonal unoccupancy; or
 - (b) Pay property taxes that are owing and have been outstanding for more than one year following the date due, except that this provision will not apply where you are in a bona fide dispute with the taxing authority regarding payment of such taxes.
- b. 10 days before the effective date of cancellation if we cancel for nonpayment of premium.
- c. 30 days before the effective date of cancellation if we cancel for any other reason.
- 3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
- 4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
- 5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.

6. If notice is mailed, proof of mailing will be sufficient proof of notice.

B. Changes

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

C. Concealment, Misrepresentation Or Fraud

This policy is void in any case of fraud by you as it relates to this policy at any time. It is also void if you or any other insured, at any time, intentionally conceals or misrepresents a material fact concerning:

1. This policy;
2. The Covered Property;
3. Your interest in the Covered Property; or
4. A claim under this policy.

D. Examination Of Your Books And Records

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

E. Inspections And Surveys

1. We have the right to:
 - a. Make inspections and surveys at any time;
 - b. Give you reports on the conditions we find; and
 - c. Recommend changes.
2. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:
 - a. Are safe and healthful; or
 - b. Comply with laws, regulations, codes or standards.
3. Paragraphs 1. and 2. of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

4. Paragraph 2. of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

F. Insurance Under Two Or More Coverages

If two or more of this policy's coverages apply to the same loss or damage, we will not pay more than the actual amount of the loss or damage.

G. Liberalization

If we adopt any revision that would broaden the coverage under this policy without additional premium within 45 days prior to or during the policy period, the broadened coverage will immediately apply to this policy.

H. Other Insurance

1. If there is other insurance covering the same loss or damage, we will pay only for the amount of covered loss or damage in excess of the amount due from that other insurance, whether you can collect on it or not. But we will not pay more than the applicable Limit of Insurance of Section I – Property.
2. Business Liability Coverage is excess over:
 - a. Any other insurance that insures for direct physical loss or damage; or
 - b. Any other primary insurance available to you covering liability for damages arising out of the premises or operations for which you have been added as an additional insured.
3. When this insurance is excess, we will have no duty under Business Liability Coverage to defend any claim or "suit" that any other insurer has a duty to defend. If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

I. Premiums

1. The first Named Insured shown in the Declarations:
 - a. Is responsible for the payment of all premiums; and
 - b. Will be the payee for any return premiums we pay.
2. The premium shown in the Declarations was computed based on rates in effect at the time the policy was issued. On each renewal, continuation or anniversary of the effective date of this policy, we will compute the premium in accordance with our rates and rules then in effect.

3. With our consent, you may continue this policy in force by paying a continuation premium for each successive one-year period. The premium must be:

- a. Paid to us prior to the anniversary date; and
- b. Determined in accordance with Paragraph 2. above.

Our forms then in effect will apply. If you do not pay the continuation premium, this policy will expire on the first anniversary date that we have not received the premium.

4. Undeclared exposures or change in your business operation, acquisition or use of locations may occur during the policy period that are not shown in the Declarations. If so, we may require an additional premium. That premium will be determined in accordance with our rates and rules then in effect.

J. Premium Audit

1. This policy is subject to audit if a premium designated as an advance premium is shown in the Declarations. We will compute the final premium due when we determine your actual exposures.
2. Premium shown in this policy as advance premium is a deposit premium only. At the close of each audit period, we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
3. The first Named Insured must keep records of the information we need for premium computation and send us copies at such times as we may request.

K. Transfer Of Rights Of Recovery Against Others To Us

1. Applicable to Businessowners Property Coverage:

If any person or organization to or for whom we make payment under this policy has rights to recover damages from another, those rights are transferred to us to the extent of our payment. That person or organization must do everything necessary to secure our rights and must do nothing after loss to impair them. But you may waive your rights against another party in writing:

- a. Prior to a loss to your Covered Property.

- b. After a loss to your Covered Property only if, at time of loss, that party is one of the following:

- (1) Someone insured by this insurance;
- (2) A business firm:
 - (a) Owned or controlled by you; or
 - (b) That owns or controls you; or
- (3) Your tenant.

You may also accept the usual bills of lading or shipping receipts limiting the liability of carriers.

This will not restrict your insurance.

2. Applicable to Businessowners Liability Coverage:

If the insured has rights to recover all or part of any payment we have made under this policy, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

L. Transfer Of Your Rights And Duties Under This Policy

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual Named Insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EMPLOYMENT-RELATED PRACTICES EXCLUSION

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

The following exclusion is added to Paragraph B.1.
Exclusions - Applicable To Business Liability Coverage
in Section II - Liability:

This insurance does not apply to "bodily injury" or "personal and advertising injury" to:

(1) A person arising out of any:

- (a) Refusal to employ that person;
- (b) Termination of that person's employment; or
- (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious prosecution directed at that person; or

- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" or "personal and advertising injury" to that person at whom any of the employment-related practices described in Paragraph (a), (b) or (c) above is directed.

This exclusion applies:

- (1) Whether the injury-causing event described in paragraph (a), (b) or (c) above occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CALCULATION OF PREMIUM

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

The following is added:

The premium shown in the Declarations was computed based on rates in effect at the time the policy was issued. On each renewal, continuation, or anniversary of the effective date of this policy, we will compute the premium in accordance with our rates and rules then in effect.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - SILICA OR SILICA-RELATED DUST

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

A. The following exclusion is added to Paragraph B. Exclusions in Section II - Liability:

B. Exclusions

This insurance does not apply to:

SILICA OR SILICA-RELATED DUST

1. "Bodily injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, or ingestion of, "silica" or "silica-related dust".
2. "Property damage" arising, in whole or in part, out of the actual, alleged, threatened or suspected contact with, exposure to, existence of, or presence of, "silica" or "silica related dust".
3. "Personal and advertising injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, "silica" or "silica-related dust".

4. Any loss, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to or assessing the effects of, "silica" or "silica-related dust", by any insured or by any other person or entity.

B. The following definitions are added to Paragraph F. Liability And Medical Expenses Definitions in Section II - Liability:

1. "Silica" means silicon dioxide, (occurring in crystalline, amorphous and impure forms), silica particles, silica dust or silica compounds.
2. "Silica-related dust" means a mixture or combination of silica and other dust or particles.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

The following provisions are added to the Businessowners Policy and apply to Property and Liability Coverages:

A. CAP ON CERTIFIED TERRORISM LOSSES

"Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in accordance with the provisions of the federal Terrorism Risk Insurance Act, to be an act of terrorism pursuant to such Act. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:

1. The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and
2. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

If aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a calendar year and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

- B.** The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for loss or injury or damage that is otherwise excluded under this Policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

FUNGI OR BACTERIA EXCLUSION (LIABILITY)

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

The following provisions are added to Section II - Liability:

A. The following exclusion is added to Paragraph B.1., Exclusions - Applicable To Business Liability Coverage:

t. Fungi Or Bacteria

- (1) "Bodily injury", "property damage" or "personal and advertising injury" which would not have occurred, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any "fungi" or bacteria on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury or damage.

- (2) Any loss, cost or expenses arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of, "fungi" or bacteria, by any insured or by any other person or entity.

This exclusion does not apply to any "fungi" or bacteria that are, are on, or are contained in, a good or product intended for bodily consumption.

B. The following definition is added Paragraph F. Liability And Medical Expenses Definitions:

1. "Fungi" means any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents or by-products produced or released by fungi.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EXCLUSION – ACCESS OR DISCLOSURE OF
CONFIDENTIAL OR PERSONAL INFORMATION AND
DATA-RELATED LIABILITY – WITH LIMITED
BODILY INJURY EXCEPTION**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

- A. Exclusion B.1.q. of Section II – Liability** is replaced by the following:

This insurance does not apply to:

q. Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability

- (1)** Damages, other than damages because of "personal and advertising injury", arising out of any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or
- (2)** Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in Paragraph **(1)** or **(2)** above.

However, unless Paragraph **(1)** above applies, this exclusion does not apply to damages because of "bodily injury".

As used in this exclusion, electronic data means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive, process, store, retrieve or send data.

B. The following is added to Paragraph **B.1.p. Personal And Advertising Injury** Exclusion of **Section II – Liability**:

This insurance does not apply to:

p. Personal And Advertising Injury

"Personal and advertising injury":

Arising out of any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of any access to or disclosure of any person's or organization's confidential or personal information.

BUSINESSOWNERS COVERAGE FORM INDEX

This index is provided only as a convenience. It should not be assumed to provide a reference to every provision that can affect a question, claim or coverage. To determine the full scope of coverage and pertinent restrictions and exclusions, the policy (including endorsements) must be read in its entirety. The features may also be affected by related provisions not referenced at all in the index, or noted elsewhere in it. For instance, an **Exclusion** feature addresses a specific policy exclusion; but restrictions of coverage and exclusions also appear within the areas where coverage, covered causes of loss, etc., are described.

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AMENDATORY ENDORSEMENT

This insurance does not apply under any of the coverages to damages arising out of:

- a. **misconduct** by an **insured**, or
- b. the liability of the **insured** for the **misconduct** of another **insured** or any other person.

The following definition is added:

Misconduct as used in this any person.

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Kenneth Seifert d/b/a The Hair Place and
Harmar Barbers, Inc., individually and on
behalf of all others similarly situated,

Civil File No: 20-cv-01102 JRT/DTS

Plaintiffs,

v.

IMT Insurance Company,

Defendant.

**EXHIBIT E TO DEFENDANT'S
MOTION TO DISMISS**

2018 WL 3412974

Only the Westlaw citation is currently available.
United States District Court, S.D. Florida.

MAMA JO'S, INC. d/b/a Berries, Plaintiff,
v.
SPARTA INSURANCE COMPANY, Defendant.

Case No. 17-cv-23362-KMM

Signed 06/11/2018

Attorneys and Law Firms

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David Alan Wagner, Holly S. Harvey, Clyde & Co. US LLP, Jorge Alexander Maza, Thornton Davis & Fein, P.A., Miami, FL, for Defendant.

OMNIBUS ORDER

K. MICHAEL MOORE, CHIEF UNITED STATES DISTRICT JUDGE

*1 This cause came before the Court upon cross-motions for summary judgment. Defendant Sparta Insurance Company ("Defendant" or "Sparta") filed a Motion for Summary Judgment ("Def.'s Mot.") (ECF No. 106) and Plaintiff Mama Jo's, Inc., d/b/a Berries ("Plaintiff") filed a Motion for Partial Summary Judgment ("Pl.'s Mot.") (ECF No. 110).¹ Also before the Court are two *Daubert* Motions.² The motions are now ripe for review.

I. BACKGROUND³

A. Factual Background

This case arises from a dispute regarding insurance coverage of Plaintiff's property located at 2884 SW 27th Avenue, Miami, FL, 33133 (the "Restaurant") under a commercial insurance policy issued by Defendant. The Policy (ECF No. 110-1)

i. The Policy

The Policy was in effect from September 19, 2013 to September 19, 2014. Pl.'s 56.1, ¶¶ 1, 4; Def.'s Resp. 56.1, ¶ 21. Only certain provisions of the Policy are in issue. The Policy covers "direct physical loss of or damage to Covered Property at the premises described in the Declarations caused by or resulting from any Covered Cause of Loss." The Policy at 31. "Covered Causes of Loss" means "direct physical loss unless the loss is" excluded or limited. *Id.* at 68. There is additional coverage "to remove debris of Covered Property caused by or resulting from a Covered Cause of Loss that occurs during the policy period." *Id.* at 33.

Under the Business Income Loss (and Extra Expense) Coverage Form, Defendant "will pay for the actual loss of Business Income you sustain due to the necessary 'suspension' of your 'operations' during the 'period or restoration'. The 'suspension' must be caused by direct physical loss of or damage to property." *Id.* at 46.

ii. The Claim and Sparta's Response

From December 2013 through June 2015, construction roadwork was performed at SW 27th Avenue, the street adjacent to the restaurant. Pl.'s 56.1, ¶ 5; Def.'s Resp. 56.1, ¶ 22; Def.'s 56.1, ¶ 9. During this time, Plaintiff continually cleaned the restaurant. Pl.'s 56.1, ¶ 7. In December 2014, Plaintiff notified Sparta of its claims. Joint Pretrial Stipulation ("Stipulation") (ECF No. 143) at 4. Corey Buford, an insurance adjuster, was assigned to adjust the claim on Sparta's behalf and made requests for additional information during December 2014 and January 2015. Def.'s Resp. 56.1, ¶¶ 33, 35. Plaintiff hired Epic Group Public Adjusters ("Epic") to assist it with its adjustment claim for cleaning. Pl.'s 56.1, ¶ 8.⁴ In January 2015, Robert Inguanzo, Epic's representative public adjuster, responded to Buford's request for additional information, stating that the loss "occurred as early as December of 2013 in the form of construction debris and dust from the road work" and that in terms of damages, "the construction related debris and dust ... caused damage to the insured's building. The scope of loss including but is not limited to, cleaning of the floors, walls, tables, chairs and countertops." *Id.* at ¶¶ 25, 34, 36.

*2 In March 2015, Epic provided Plaintiff with an estimate of \$16,275.58 for cleaning, painting and striping the parking

lot. Pl.'s 56.1, ¶ 9; Def.'s Resp. 56.1, ¶ 9.⁵ In April 2015, Robert Inguanzo sent a letter to Buford with a “preliminary damage estimate” for \$16,275.58 and a corresponding “Sworn Statement in Proof of Loss” for \$13,775.58 (i.e., the amount of the estimate minus a \$2500 deductible) and a loss of business income claim for \$292,550.84. Pl.'s 56.1, ¶ 9; Def.'s Resp. 56.1, ¶¶ 9, 37. In January 2017, Sparta sent Plaintiff a letter stating that the claims presented “are not covered under the subject SPARTA policy ...” Pl.'s 56.1, ¶ 16, Ex. M. at 5.

B. Procedural Background

After Plaintiff was denied coverage, Plaintiff filed its claim in Florida State court on May 19, 2017 against Defendants Sparta, Prohost USA, Inc. (“Prohost”) and Buford, which Sparta removed to federal court in the Southern District of Florida on September 6, 2017 based on diversity jurisdiction.⁶ Notice of Removal (ECF No. 1). Plaintiff voluntarily dismissed Defendants Buford and Prohost. *See* (ECF Nos. 63, 64). On October 11, 2017, Plaintiff claimed \$16,275.58 of damages for cleaning in its initial disclosures. (ECF No. 20). On February 26, 2018, Plaintiff amended its disclosures to identify new categories of damages and a new damage total of \$319,668.57. (ECF No. 101-5).⁷ In the Amended Complaint, Plaintiff alleges one count of breach of contract against Sparta, the only remaining Defendant, for denial of coverage.

II. LEGAL STANDARD

Summary judgment is appropriate where there is “no genuine issue as to any material fact [such] that the moving party is entitled to judgment as a matter of law.” *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986); Fed. R. Civ. P. 56. A genuine issue of material fact exists when “a reasonable jury could return a verdict for the non-moving party.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 249 (1986). “For factual issues to be considered genuine, they must have a real basis in the record.” *Mann v. Taser Int'l, Inc.*, 588 F.3d 1291, 1303 (11th Cir. 2009) (citation omitted). Speculation or conjecture cannot create a genuine issue of material fact. *Cordoba v. Dillard's, Inc.*, 419 F.3d 1169, 1181 (11th Cir. 2005). The moving party has the initial burden of showing the absence of a genuine issue as to any material fact. *Clark v. Coats & Clark, Inc.*, 929 F.2d 604, 608 (11th Cir. 1991). In assessing whether the moving party has met this burden, the court must view the movant’s evidence and all factual inferences arising from it in the light most favorable to the non-moving

party. *Denney v. City of Albany*, 247 F.3d 1172, 1181 (11th Cir. 2001). Once the moving party satisfies its initial burden, the burden shifts to the non-moving party to come forward with evidence showing a genuine issue of material fact that precludes summary judgment. *Bailey v. Allgas, Inc.*, 284 F.3d 1237, 1243 (11th Cir. 2002); Fed. R. Civ. P. 56(e). “If reasonable minds could differ on the inferences arising from undisputed facts, then a court should deny summary judgment.” *Miranda v. B & B Cash Grocery Store, Inc.*, 975 F.2d 1518, 1534 (11th Cir. 1992).

III. DISCUSSION

*3 Defendant moves for summary judgment arguing that Plaintiff’s alleged damages and business income loss are not covered under the Policy. As a threshold matter, the Court must determine whether Plaintiff can prove “direct physical loss or damage” and thus whether coverage exists under the Policy. Because Plaintiff’s theory of liability hinges upon expert testimony and because the Court may consider only admissible evidence on summary judgment, the Court first addresses Defendant’s objections to the admissibility of Plaintiff’s causation experts.⁸

A. Daubert Standard

Rule 26(a)(2)(B) of the Federal Rules of Civil Procedure provides that expert disclosures be accompanied by a written report, signed by the witness, containing a complete statement of all opinions the witness will express and the bases for those opinions. Fed. R. Civ. P. 26(a)(2)(A), (B). Rule 702 of the Federal Rules of Evidence provides that expert testimony is admissible if

scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise, if (1) the testimony is based upon sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has

applied the principles and methods reliably to the facts of the case.

STMicroelectronics, Inc. v. SanDisk Corp., No. 05cv-45, 2007 WL 4386234 (E.D. Tex. Mar. 15, 2007). “Rule 702 compels the district courts to perform the critical ‘gatekeeping’ function concerning the admissibility of expert scientific evidence.” *U.S. v. Frazier*, 387 F.3d 1244, 1260 (11th Cir. 2004) (emphasis in original) (citing *Daubert v. Merrill Dow Pharm., Inc.*, 509 U.S. 579, 589, n.7, 597 (2006)). The court must also act as gatekeeper with respect to the admissibility of technical expert evidence. *Kumho Tire Co. v. Carmichael*, 526 U.S. 137, 147 (1999). In determining the admissibility of expert testimony, the Court considers whether:

- (1) The expert is qualified to testify competently regarding the matters he intends to address;
- (2) the methodology by which the expert reaches his conclusions is sufficiently reliable as determined by the sort of inquiry mandated in *Daubert*; and
- (3) the testimony assists the trier of fact, through the application of scientific, technical, or specialized expertise, to understand the evidence or to determine a fact in issue.

Finestone v. Florida Power & Light Co., No. 03-cv-14040, 2006 WL 267330, *8 (S.D. Fla. Jan. 6, 2006) (internal citations omitted). “The burden of laying the proper foundation for the admission of the expert testimony is on the party offering the expert.” *Allison v. McGhan Med. Corp.*, 184 F.3d 1300, 1306 (11th Cir. 1999).

i. Defendant’s *Daubert* Motion

*4 Defendant moves to exclude the opinions of all Plaintiff’s experts. For purposes of summary judgment, the Court considers Defendant’s *Daubert* Motion as to the following experts: (1) Alex Posada –damage to audio and lighting systems; (2) Christopher Thompson – damage to the awnings, roll-up curtains, retractable roof, and related motors, hardware and electronics; and (3) Alfred Brizuela –

causation and origin of property damage. Plaintiff designated the testimony of Posada, Thompson, and Brizuela to prove that the construction dust caused the alleged damage to the restaurant.⁹

1. Plaintiff’s Expert Alex Posada

Alex Posada is Plaintiff’s audio and lighting expert. Defendant argues that Posada is not qualified and his testimony on causation and damages is not reliable.

First, Defendant challenges Posada’s qualifications, arguing that Posada’s Rule 26 Report did not include a resume or curriculum vitae and that Plaintiff failed to show education, training, or experience that would provide him with scientific, technical, or other specialized knowledge to opine that roadway construction can and did cause damage to Plaintiff’s audio and lighting systems in 2014. (“Posada Report”) (ECF No. 105-3). Plaintiff contends that Posada has extensive experience in the audio and lighting industry and has assessed lighting and audio systems damaged by construction dust and debris around twenty to thirty times in the past. Posada Dep. (ECF No. 108-1) at 98:21–99:8. An expert “may be qualified ‘by knowledge, skill, experience, training, or education.’ ” *Bouton v. Ocean Props., Ltd.*, No. 16-cv-80502, 2017 WL 4792488, at *7 (S.D. Fla. Oct. 23, 2017). The Court finds that Posada is qualified because of his experience in the field.

Second, Defendant argues Posada’s testimony is not reliable. Even a “supremely qualified expert cannot waltz into the courtroom and render opinions unless those opinions are based on some recognized scientific method.” *Beltran v. NCL Corp., Ltd.*, No. 13-cv-24566, 2017 WL 4270618, at *4 (S.D. Fla. Sept. 26, 2017). Thus, a court must focus on the “ ‘reliability’ of a proffered expert’s ‘sources and methods.’ ” *Chapman*, 766 F.3d at 1306.

Posada identified a reliable methodology, the “QC diagnostic” test, to determine which components of the audio system were damaged and which needed to be repaired or replaced. *See* Posada Report at 3 (“The testing provides valuable diagnostic information for detecting the root cause of the problem and allows to determine if the system is repairable.”). Posada testified that the QC Diagnostic test was the only option to determine a specific reason why a speaker or light was not working. Posada Dep. at 55:12–56:7.¹⁰ However, Posada did not perform the QC diagnostic test. *Id.* at 53:21–24; 55:5–16, 55:19–22; 57:10–23.

*5 Instead, Posada did a two hour walk-through at the restaurant and conducted a visual and auditory test in February 2018, over two years after the roadway construction ended. Posada Dep. at 30:16. Plaintiff argues Posada's walk-through was sufficient due to his years of experience and ability to determine whether a speaker has been damaged by dust or debris based on the unique sound the speaker makes. Posada testified that he could tell it was construction dust damage from listening to the speakers because the sound was "tedious." *Id.* at 88:12–89:6; 94:1–9. Posada did not inspect the entire audio system because some were out of reach and he did not want to disturb the patrons who were having lunch. *Id.* at 24:18–24; 32:5–16.¹¹ He inspected the back of some subwoofers, which were located on the floor, and stated that he "had a hard time taking the connector out, and that is due to the corrosion and due to the dust." *Id.* at 40:11–13. Posada stated that speakers can remain in good condition for about ten years but admitted that he did not know the age of the speakers. In fact, Posada did not know when the speakers were installed or when they stopped working. *Id.* at 77:3–10; 76:4–20; 87:1–9.

Posada also testified that the lights at the restaurant were not working and that the only things that can cause damage to LED lighting are construction dust and water. *Id.* at 44:1–2; 81:6–15. He observed the ceiling lights from the ground level, about 15 feet below the fixtures. *Id.* at 45:8–9. ("all the light fixtures are all [15 feet or higher]."). Posada could not see the motherboard from the floor and did not inspect the motherboard of the light fixtures at the restaurant. *Id.* at 97:19–98:11. He further testified that "there was no way for [him] to grab a ladder to take a look at these lights in close proximity to see if it's really the LED screen that's not working or the lamp." *Id.* at 33:11–17.

Under *Daubert*, the "district judge asked to admit scientific evidence must determine whether the evidence is genuinely scientific, as distinct from being unscientific speculation." *Chapman*, 766 F.3d at 1306. Posada concluded that the audio and lighting systems were damaged by exposure to construction dust and debris. Posada Dep. at 75:4–18. He did not review any documents or photographs of the property before or during his inspection. *Id.* at 31:1–12. In February 2018, Posada merely listened to the audio system –while patrons were in the restaurant– and looked at the lighting system from 15-feet below to conclude that any alleged damage was caused by construction dust and debris from the roadway construction in 2014. Defendant argues that this

unverified causation opinion amounts to nothing more than inadmissible *ipse dixit* that regurgitates Plaintiff's theory of the case. Def.'s Daubery Motion at 5. This "Court does not denigrate the use of visual inspections," *Banta Properties, Inc. v. Arch Specialty Ins. Co.*, No. 10-cv-61485, 2011 WL 7118542, at *4 (S.D. Fla. Dec. 23, 2011). But here, Posada's methodology was unreliable, providing nothing more than speculation about the cause of the damage to audio and lighting equipment. Posada's testimony is therefore excluded.

2. Plaintiff's Expert Christopher Thompson

Defendant moves to exclude the testimony of Thompson on the issue of damages to the awnings, roll-up curtains, retractable roof, and related motors, hardware and electronics arguing that he is not qualified and the methodology used was unreliable.

First, Defendant challenges Thompson's qualifications arguing that Thompson's Rule 26 Report ("Thompson Report") (ECF No. 105-4) did not suggest that Thompson has any specialized knowledge to opine on whether construction dust can and did, in fact, cause any property damage. Thompson has worked in his family awning business for the past 30 years. Thompson Report at 10. The "qualification standard for expert testimony is 'not stringent,' and 'so long as the expert is minimally qualified, objections to the level of the expert's expertise [go] to credibility and weight, not admissibility.'" *Banta*, 2011 WL 7118542, at *2. Furthermore, an expert may be qualified by "experience." *Bouton*, 2017 WL 4792488, at *7. Thompson is at least minimally qualified to render an expert opinion from his years of experience.

*6 Second, Defendant argues that Thompson's opinions are unreliable "leaps of faith" unsupported by evidence. Plaintiff argues that Thompson's methodology was reliable because he conducted "visual testing" and that the testimony would be helpful because the damages involved "technical issues outside a juror's ordinary knowledge." Pl.'s *Daubert* Resp. at 11.

Thompson inspected the property for approximately one hour in February 2018. Thompson Dep. (ECF No. 108-3) at 29:23–24. He concluded that all the awnings, gear drives, and motors were damaged from construction dust and debris and must be replaced. Thompson Report at 1. The following deposition testimony is particularly relevant to the Court's determination

that Thompson failed to use a reliable methodology to support his conclusions:

Q: "The black sediment that you observed, do you know what it was?" A: "In my opinion it was debris from the road construction, dirt." Q: "What are you basing that on?" A: "*I'm basing my opinions on awnings that I did for many years and, you know, that awning is filthy. I know what it was when we put it up. I know what it looks like now, so ...*" *Id.* at 43:20-22; 44:14-20 (emphasis added)

Q: "Other than the fact that you have eaten at [the restaurant] and have seen roadwork going on, do you have any other basis for that opinion that that black sediment was from the roadwork?" A: "*Well, I've seen several other awnings I did over the years and, you know, it didn't come with the awning on, you know, when it was new. So I'm just making that assumption that I'm seeing the road. And I've been there several times and the roof is closed and when you open it up, there is dirt and particles flying through the air when I have been there for lunch. So to me, if you have a road and you have –when I've been there and eaten lunch over the years and you have road debris going on and your curtains are down, and the dirt is flying, it leads me to believe that that would be from there.*" *Id.* at 45:19–46:17 (emphasis added).

Thompson also testified that he observed discoloration in the awnings but did not know whether that discoloration was caused by the sediment. *Id.* at 62:20-25. When asked about alternative causes for the discoloration, Thompson did not know if it could have been caused by salt or sap but testified that although he did not know what the sediment was, he knew the sediment could deteriorate the fabric. *Id.* at 117:6–16. When asked if he knew when the sediment got on the awning, Thompson responded "I sure don't." Thompson Dep. at 54:11–13.

Thompson also inspected the retractable roof and drive belt. The only component of the retractable system that Thompson could confirm was broken was the drive belt that opens and closes the roof but he was unsure when the drive belt "snapped." *Id.* at 47:1–12; 69:24–70:1; 71:12–13 (Q: "Do you know why it snapped in half?" A: "I could not tell you. I have an opinion, but I couldn't tell you seriously.").

A district court enjoys flexibility in conducting the reliability analysis and application of *Daubert* factors in any "given case will depend ... on the nature of the issue, the expert's particular expertise, and the subject of his testimony." *United*

States v. Brown, 415 F.3d 1257, 1268 (11th Cir. 2005) (internal quotations omitted). Where "the proposed expert's opinion relies principally upon his experience and knowledge," the Court must be satisfied "that the witness has appropriately explained how his experience leads to the conclusion he reached, why that experience provides a sufficient basis for the opinion, and how that experience is reliably applied to the facts." *Clena Invs., Inc. v. XL Specialty Ins. Co.*, 280 F.R.D. 653, 663 (S.D. Fla. 2012). While "absolute certainty is not required from an expert," *Banta*, 2011 WL 7118542, at *3, " 'knowledge' connotes more than subjective belief or unsupported speculation." *Daubert*, 509 U.S. at 590. The Court finds that Thompson's testimony is nothing more than unexplained assurances and unsupported speculation.

3. Plaintiff's Expert Alfred Brizuela

*7 Defendant challenges the qualification and reliability of Brizuela, Plaintiff's causation expert who opined that the roadway construction dust caused damage to metal structures at Plaintiff's restaurant.

First, Defendant challenges Brizuela's qualifications arguing that Plaintiff has not provided any credible evidence to show that Brizuela has the education, training, or experience on this discrete subject matter to assess whether roadway construction dust can cause damage to the metal structures and whether the roadway construction did, in fact, cause damage to the metal structures. Brizuela has a degree in architecture and structural engineering, is a Florida licensed civil and structural engineer with over thirty-three years of experience in assessing commercial and residential properties for structural and architectural damage, and has had experience with dust "affecting cars at [his] construction sites, affecting the finish and the metals on the cars." Brizuela Dep. (ECF No. 108-5) at 22:12–23:25; Brizuela Qualifications (ECF No. 113-10). Because of Brizuela's education and background, the Court finds that Brizuela is qualified.

Second, Defendant argues Brizuela failed to use reliable methodology to support his testimony regarding causation. Brizuela stated that construction dust "in its simplest form, is a mixture of a [sic] small particles from concrete (Portland cement and water) and aggregate and limestone which is primarily calcium carbonate." Brizuela Report (ECF No. 105-5). at 6. He stated that Portland cement "has distinctive characteristics of its own as it is the basic ingredient of concrete." *Id.* at 6. Though Brizuela opined on what concrete

is generally made of and damage that it can cause, he did not conduct any chemical testing of the construction dust allegedly adhered to the metal at the restaurant. Instead, he conducted a one hour visual inspection of the restaurant in December 2017; over two years after the construction had ended. Brizeula Report at 1; Brizeula Dep. at 57:5–58:6; 59:19–21; 115:24–115:4; 154:4–7 (“testing was strictly the observation through ... inspection and review of [] photographs.”) His efforts to remove the alleged “adhered paste during [his] inspection” involved running his “fingers across it.” Brizeula Dep. at 116:5–10. Based on his inspection, Brizeula concluded that “it is evident that the source of [any] damage was from the nearby roadway construction.” Brizeula Report.

Brizeula stated in his report that the “migration of the [construction] dust and its resulting paste was a sudden and accidental occurrence that damaged” the “windows, railings, paint and stucco” and the “awning structure.” Brizeula Report at 6–7.¹² The Court finds that Brizeula’s testimony is not based on any methodology and further, any testimony regarding the alleged damage would not be helpful to a jury because Brizeula testified that: (1) he did not observe any dust on the window frames during his inspection, (Brizeula Dep. at 86:17–19); (2) he did not see any damage to the stucco, (*id.* at 90:6–13); (3) he “observed dust on the metal framing of the awning” during his inspection in December of 2017—two years after the construction ended—but found that the “awning had yet to experience high levels of moisture which would cake on [...] that dust and make it stick” and testified that he has not seen any evidence of that on the frame, (*id.* at 67:10–24); (4) he did not know whether dust was caked on the awning structure because he “didn’t get up that high to see if it was caked,” (*id.* at 93:2–8); (5) he observed some corrosion on the metal railings but noted that “the finish is still in place. I mean, there is some corrosion on the railings or in—but that would—I would attribute that to natural oxidation. If you look [at] ... the area where there is corrosion, it’s just, I would say, natural to that railing,” (*id.* at 94:2–7); and (6) the corrosion damage in his Report “will” occur, but that “[c]orrosion damage relating to the dust has ... not occurred yet.” *Id.* at 94:16–24.

*8 Relevant testimony from a qualified expert is only admissible if the expert knows of facts which enable him to express reasonably accurate conclusion as opposed to conjecture or speculation. *Vision I Homeowners Ass’n, Inc. v. Aspen Specialty Ins. Co.*, 674 F. Supp. 2d 1321, 1325 (S.D. Fla. 2009). Absolute certainty is not required and expert

testimony is admissible when it connects conditions existing later to those existing earlier provided the connection is concluded logically. *Id.* Even if the Court accepts, as Brizeula testified, that construction dust and debris can generally cause damage to metal, his conclusions are unreliable for the following reasons: (1) he did not inspect some allegedly damaged items, (2) he did not observe damage to some of the items claimed, and (3) testified that that some damage had yet to occur. Brizeula is unable to attribute damage to the construction dust with any degree of certainty and his testimony is therefore excluded.

B. Defendant’s Motion For Summary Judgment

Defendant moves for summary judgment arguing that Plaintiff’s alleged “direct physical loss of or damage” and business income loss are not covered under the Policy. Defendant argues it is entitled to summary judgment for several reasons including but not limited to the following (1) Plaintiff’s expenses associated with cleaning dust from building surfaces and personal property do not constitute direct physical loss or damage because the dust did not tangibly injure covered property; (2) Plaintiff cannot meet its burden of showing that the alleged damage occurred during the policy period; and (3) Plaintiff’s business interruption claim fails because Plaintiff has not sustained a suspension of operations for a period of restoration caused by direct physical loss or damage.

Under Florida law, the interpretation of an insurance contract is a matter of law to be decided by the court. *Adelberg v. Berkshire Life Ins. Co.*, 97 F.3d 470, 472 (11th Cir. 1996). Florida courts look at the insurance policy as a whole and give every provision its full meaning. *State Farm Fire & Cas. Co. v. Steinberg*, 393 F.3d 1226, 1230 (11th Cir. 2004).

i. Direct Physical Loss or Damage

Plaintiff argues that the migration of dust and construction debris from the roadwork adjacent to the restaurant caused damage to the restaurant and contends that this dust and debris constitutes “direct physical loss” to the Property under the Policy. Under the all-risk insurance Policy between Plaintiff and Defendant, the insured must initially show (1) that there was a relevant loss – here a “direct physical loss or damage” – which (2) occurred within the policy period. *Sporting Prod., LLC v. Pac. Ins. Co., Ltd.*, No. 10-cv-80656, 2012 WL 13018367, at *10 (S.D. Fla. Jan. 6, 2012).¹³

First, with regards to Plaintiff's new damages alleged in the February 2018 disclosures for replacement of the restaurant's awning and retractable roof, audio systems, lighting systems, asphalt parking lot, and HVAC systems, Plaintiff relies on the expert reports of the excluded experts—Brizuela, Thompson, and Posada,—in order to prove causation and damage.

While an expert is not necessary in all breach of contract cases, here the crucial question—whether construction dust and debris caused damage to Plaintiff's property—is not one a lay witness can answer. *Johnson*, 2013 WL 4607548, at *11 (“While it may be true that an expert is not required in all breach of contract cases, here the crucial question—whether the water damage came from ground water accumulation or a roof defect—is not one a lay witness can answer.”). “A person seeking to recover on an insurance policy has the burden of proving a loss from causes within the terms of the policy[,] and if such proof of loss is made within the contract of insurance, the burden is on the insurer to establish that the loss arose from a cause that is excepted from the policy.” *Evanston Ins. Co. v. Haven S. Beach, LLC*, 152 F. Supp. 3d 1370, 1374 (S.D. Fla. 2015).¹⁴

*9 Plaintiff carries the burden of proving causation to show that there was a direct physical loss and thus coverage under the Policy. *Companhia Energetica Potiguar v. Caterpillar Inc.*, No. 14-cv-24277, 2016 WL 7507848, at *13 (S.D. Fla. Aug. 1, 2016). Plaintiff acknowledges that “causation is a central issue in this case,” which “raises scientific and technical issues beyond a juror's ordinary knowledge.” Pl.'s *Daubert* Resp. at 15.

The Eleventh Circuit affirmed a district court's grant of summary judgment on the basis of its exclusion of the expert's testimony, where that testimony was the only evidence on the issue of causation. *Guinn v. AstraZeneca Pharm. LP*, 602 F.3d 1245, 1251 (11th Cir. 2010) Where a plaintiff cannot show evidence that their loss is covered, a plaintiff “cannot show [Defendant] breached the terms of the Policy by refusing to pay their claim.” *Johnson*, 2013 WL 4607548, at *11. Here, without its experts, Plaintiff cannot show that the construction dust and debris from 2014 caused the alleged “direct physical loss” to their awnings, retractable roof, HVAC system, railings, and audio and lighting system. Thus, summary judgment is appropriate.

Second, with regards to Plaintiff's initial claim for cleaning,¹⁵ cleaning is not considered direct physical loss.

See e.g., *Universal Image Prods., Inc. v. Fed. Ins. Co.*, 475 F. App'x 569, 573 (6th Cir. 2012) (“[Plaintiff] seeks coverage for cleaning and moving expenses ... as well as lost business income. These are not tangible, physical losses, but economic losses.”). A direct physical loss “contemplates an actual change in insured property then in a satisfactory state, occasioned by accident or other fortuitous event directly upon the property causing it to become unsatisfactory for future use or requiring that repairs be made to make it so.” *MRI Healthcare Ctr. of Glendale, Inc. v. State Farm Gen. Ins. Co.*, 187 Cal. App. 4th 766, 779 (2010); see also *AFLAC Inc. v. Chubb & Sons, Inc.*, 260 Ga. App. 306, 308, (2003).

Even if this Court were to adopt a more expansive definition of “direct physical loss or damage,” Plaintiff would not be entitled to coverage. Several courts have held that “physical loss” occurs when property becomes “uninhabitable” or substantially “unusable.” See e.g. *Port Auth. of New York & New Jersey v. Affiliated FM Ins. Co.*, 311 F.3d 226, 236 (3d Cir. 2002) (“When the presence of large quantities of asbestos in the air of a building is such as to make the structure uninhabitable and unusable, then there has been a distinct loss to its owner.”). Indeed, where “[t]he structure continues to function—it has not lost its utility ... routine maintenance does not bring the expense within first-party coverage.” *Id.*

Here, the restaurant was not “uninhabitable” or “unusable.” In fact, the restaurant remained open every day, customers were always able to access the restaurant, and there is no evidence that dust had an impact on the operation other than requiring daily cleaning. See Def.'s Resp. 56.1, ¶ 26; Edmonson Dep. (ECF No. 116-8), 39:12–19, 46:3–6, 63:17–22; Snider Dep. (ECF No. 107-1) at 66:10–67:6. “The requirement that the loss be ‘physical,’ given the ordinary definition of that term, is widely held to exclude alleged losses that are intangible or incorporeal and, thereby, to preclude any claim against the property insurer when the insured merely suffers a detrimental economic impact unaccompanied by a distinct, demonstrable, physical alteration of the property.” See 10A Couch on Ins. § 148:46 (3d. Ed. West 1998). The fact that the restaurant needed to be cleaned more frequently does not mean Plaintiff suffered a direct physical loss or damage and thus, summary judgment is appropriate.¹⁶

ii. Business Income Loss (and Extra Expense) Coverage

*10 Sparta's Business Income (And Extra Expense) Coverage form covers “the actual loss of Business

Income you sustain due to the necessary ‘suspension’ of your ‘operations’ during the ‘period or restoration’. The ‘suspension’ must be caused by direct physical loss or damage to property.” The Policy at 46. Defendant argues that Plaintiff cannot prove any element of the Business Loss Income claim. Plaintiff argues that its loss of income is intertwined with the damage to the property and the allocation of its recourses.

It is plaintiff’s burden to prove “entitlement to business interruption insurance proceeds under the insurance policy.” *Dictiomatic, Inc. v. U.S. Fid. & Guar. Co.*, 958 F. Supp. 594, 603 (S.D. Fla. 1997). Plaintiff must prove (1) there was direct physical loss or damage to covered property, (2) the damage was caused by a covered cause of loss, (3) there was a necessary “suspension” of the insured’s “operations,” (4) the “suspension” was caused by the covered damage, (5) there was an “actual loss of business income” during a “period of restoration,” and (6) the “actual loss of income” was caused by the “suspension” of “operations.” *Id.* at 62.

As addressed above, Plaintiff has not established a direct physical loss or damage. Plaintiff cannot recover under the Business Income (And Extra Expense) Coverage because Plaintiff cannot show that there was any suspension of

operations caused by “physical damage.” See e.g. *Ramada Inn Ramogreen, Inc. v. Travelers Indem. Co. of Am.*, 835 F.2d 812, 814 (11th Cir. 1988) (“recovery is intended when the loss is due to inability to use the premises where the damage occurs.”). The restaurant remained open every day, customers were always able to access the restaurant, and suppliers were always able to access the restaurant. See Def.’s Resp. 56.1, ¶ 26; Edmonson Dep. (ECF No. 116-8), 39:12–19, 46:3–6, 53:1–9, 63:5–11. Thus, summary judgment is appropriate.

IV. CONCLUSION

For the foregoing reasons, is hereby ORDERED AND ADJUDGED that Defendant’s *Daubert* Motion to Exclude Plaintiff’s Expert (ECF No 105) is GRANTED as set forth above, Defendant’s Motion for Summary Judgment (ECF No.106) is GRANTED as set forth above. All other pending motions are denied as MOOT.

DONE AND ORDERED in Chambers at Miami, Florida, this 11th day of June, 2018.

All Citations

Not Reported in Fed. Supp., 2018 WL 3412974

Footnotes

- 1 The Parties filed their respective responses and replies. See (“Pl.’s Resp.”) (ECF No. 119); (“Def.’s Reply”) (ECF No. 125); (“Def.’s Resp.”) (ECF No. 117); (“Pl.’s Reply”) (ECF No. 124).
- 2 Defendant moved to exclude Plaintiff’s expert witnesses (“Def.’s *Daubert* Mot.”) (ECF No. 105) and Plaintiff moves to exclude Defendant’s expert witnesses. (“Pl.’s *Daubert* Mot.”) (ECF No. 111). The Parties filed their respective responses and replies. See (“Pl.’s *Daubert* Resp.”) (ECF No. 118); (“Def.’s *Daubert* Reply”) (ECF No. 122); (“Def.’s *Daubert* Resp.”) (ECF No. 115); (“Pl.’s *Daubert* Reply”) (ECF No. 120).
- 3 The undisputed facts are taken from the Amended Complaint (“Am. Compl.”) (ECF No. 102); Plaintiff’s Statement of Facts (“Pl.’s 56.1”) (ECF No. 110); Defendant’s Resp. 56.1 (“Def.’s Resp. 56.1”) (ECF No. 116); Plaintiff’s Reply 56.1 (“Pl.’s Reply 56.1”) (ECF No. 123); Defendant’s Statement of Facts (“Def.’s 56.1”) (ECF No. 106); Plaintiff’s Resp. 56.1 (“Pl.’s Resp. 56.1”) (ECF No. 119), and a review of the corresponding record citations and exhibits.
- 4 Robert Inguanzo of Epic assisted Plaintiff with its initial claim submitted to Defendant. Frank Inguanzo also works for Epic and provided a Rule 26 Report regarding damages alleged by Plaintiff. Frank Inguanzo Report (ECF No. 105-6).
- 5 This estimate for cleaning was the result of a March 2015 inspection of the property by LCD Estimators. Def.’s Resp. 56.1, ¶ 38.
- 6 “In a contract action, a federal court sitting in diversity jurisdiction applies the substantive law of the forum state.” *Tech. Coating Applicators, Inc. v. U.S. Fid. & Guar. Co.*, 157 F.3d 843, 844 (11th Cir. 1998).
- 7 The new damages included Cleaning, Concrete & Asphalt, Electrical, HVAC, Roofing (awning, roll-up curtains, retractable roof, and related motors, electronics, hardware, etc.), audio and lighting systems, and replacement of the lighting system.
- 8 Expert testimony is required regarding proof of causation “where a jury is asked to assess complex ... scientific issues outside the scope of a layperson’s knowledge.” *Small v. Amgen, Inc.*, No. 17-cv-11440, 2018 WL 501354, at *3 (11th Cir. Jan. 22, 2018); see also *Chapman v. Procter & Gamble Distrib., LLC*, 766 F.3d 1296, 1316 (11th Cir. 2014) (applying Florida law and affirming the district court’s decision on summary judgment where plaintiff’s expert failed to meet the *Daubert* standard and the plaintiff had no other expert to testify as to causation). Plaintiff acknowledges that “causation

is a central issue in this case,” which “raises scientific and technical issues beyond a juror’s ordinary knowledge.” Pl.’s *Daubert* Resp. at 15.

9 The Court will consider the *Daubert* motions only to the extent necessary to resolve the pending Motions for Summary Judgment. *Johnson v. State Farm Fire & Cas. Co.*, No. 12-cv-00534, 2013 WL 4607548, at *2 (S.D. Ala. Aug. 29, 2013). Here, the Court need not consider Frank Inguanzo’s opinions to determine causation because at his deposition, Plaintiff’s counsel stipulated that he will not offer any opinions on causation. Inguanzo Dep. at 53:12–17.

10 Question (“Q”): “So is it fair to say if you want to find out a specific reason why a speaker or light is not working, you have to run this diagnostic?” Answer (“A”): “It’s an option” Q: “What other options are there?” A: “There are no other options ... its either this or replace it which, I mean -- as of looking at it, I can already tell you it’s not going to be worth doing this.” Q: “If you want to find out the specific reason why a subwoofer or speaker or light is not working, do you need to perform the diagnostic?” A: “It’s an option. Yeah” Q: “But are there any other options?” A: “No, there is no other option.” Q: “That’s the only option?” A: “That is correct.”

11 Posada testified that he did not “walk in between the tables ... [s]o it was basically a walk-through around the perimeters where [he] was able to walk and not disturb any guests.” Posada Dep. at 34:7–11.

12 Brizuela also testified that “the HVAC system, [...] And then the fabric [on the awnings]” could also be damaged. Brizuela Dep. at 73:1–6. This testimony is not helpful because Brizeula testified that he had no opinions regarding the damage to the HVAC system or audio and lighting and would not be giving his opinion on other allegedly damaged property. Brizuela Dep. at 71:9-19 (he could not speak to the awning fabric because of “his lack of experience with that fabric”); 69:20–70:14 (he did not inspect the HVAC system and had no experience with audio and lighting equipment); 92:4–14 (he was informed that the retractable roof was not functioning but that he did not know why); and 85:19–22 (he was not rendering an opinion that dust damaged the exterior walls).

13 The Parties agree that the Policy is an “all-risk” insurance policy. See Pl.’s Mot. at 8–9; Def.’s Resp. at 3.

14 Defendant also argues that several exclusions and limitations apply that would bar coverage if the Court were to attribute the “loss or damage” to the construction dust and debris. These include but are not limited to the following: “failure of power, communication, water or other utility service supplied to premises,” “wear and tear,” “marring or scratching,” “rust or other corrosion, decay deterioration,” “mechanical breakdown,” that the dust was a “pollutant,” and “failure to mitigate damages.” Because the Court has determined that there is no coverage, the Court need not address whether these exclusions apply.

15 Robert Inguanzo, Plaintiff’s public adjuster, who assisted Plaintiff in filing its original claim for coverage against Defendants, testified that based on his initial inspection, at the time of the request “the work that we felt was necessary to bring the property to its pre-loss condition included the cleaning and painting. Robert Inguanzo Dep. (ECF No. 76-1) at 35:22–36:1. There was no need for removal or replacement of items at that time. Robert Inguanzo Dep. at 36:4–7. The entire initial estimate was for cleaning the restaurant. LCD Estimators (ECF No. 110-10)

16 Plaintiff also argues that the cleaning constituted “debris removal.” Debris removal is not defined in the Policy. However, the Policy covers expenses “to remove debris of Covered Property caused by or resulting from a Covered Cause of Loss that occurs during the policy period.” *Id.* at 33 (emphasis added). Removal of debris from the collapse of a building is covered when the debris was ‘Covered Property.’” *Harbor Cmtys., LLC v. Landmark Am. Ins. Co.*, No. 07-cv-14336, 2008 WL 2986424, at *5 (S.D. Fla. Aug. 4, 2008) (“[R]emoval of debris from the collapse of Building # 9 is covered because the collapse was a ‘Covered Cause of Loss’ and the debris was ‘Covered Property.’”). Here, the alleged debris removal was from dust and debris migrating from the roadway construction—not from any “Covered Property.” Plaintiff is not entitled to coverage for cleaning under this portion of the Policy.

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UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Kenneth Seifert d/b/a The Hair Place and
Harmar Barbers, Inc., individually and on
behalf of all others similarly situated,

Civil File No: 20-cv-01102 JRT/DTS

Plaintiffs,

v.

IMT Insurance Company,

Defendant.

**EXHIBIT F TO DEFENDANT'S
MOTION TO DISMISS**

2008 WL 2020489

Only the Westlaw citation is currently available.

NOTICE: THIS OPINION IS DESIGNATED AS
UNPUBLISHED AND MAY NOT BE CITED EXCEPT
AS PROVIDED BY MINN. ST. SEC. 480A.08(3).

Court of Appeals of Minnesota.

Robert M. LARSON, et al., plaintiffs/
judgment creditors, Appellants (A07-976),
Martha Jacobson, et al., plaintiffs/
judgment creditors, Appellants (A07-977),
Daniel J. Sletten, et al., Plaintiffs/
Judgment Creditors (A07-977),
Ralph E. Sletten, et al, Plaintiffs/
Judgment Creditors (A07-979),
Ronald J. Brzinski, et al., plaintiffs/
judgment creditors, Appellants (A07-979),
v.

COMPOSTING CONCEPTS, INC.,
Defendant/Judgment Debtor,
and

Farm Bureau Mutual Insurance Company,
defendant/garnishee, Respondent.

Nos. A07-976, A07-977, A07-979.

|
May 13, 2008.

|
Review Denied Aug. 5, 2008.

Synopsis

Background: Residents in vicinity of compost site brought garnishment actions against site operator's commercial general liability (CGL) insurer to enforce a settlement of residents' personal injury and property damage claims against operator. The District Court, Ramsey County, discharged the proceedings.

Holding: Consolidating residents' appeals, the Court of Appeals, Shumaker, J., held that living organisms, mold, bacteria, and bioaerosols that alleged caused injuries and property damage were "pollutants" under pollution exclusion in CGL insurance policy.

Affirmed.

West Headnotes (1)

[1] Insurance Pollution

Living organisms, mold, bacteria, and bioaerosols that were allegedly generated by compost materials and allegedly caused property damage and personal injuries to residents in vicinity of compost site were "pollutants" under pollution exclusion in compost site operator's commercial general liability (CGL) insurance policy that defined pollutants as any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste; there was no basis in policy language for distinguishing organic from inorganic contaminants.

Ramsey County District Court, File Nos. C3-01-8748, C5-01-6421, C9-01-5580.

Attorneys and Law Firms

Gary A. Van Cleve, John J. Steffenhagen, Larkin Hoffman Daly & Lindgren, Ltd., Bloomington, MN, Robert A. Hill, Robert Hill & Associates, Ltd., Eden Prairie, MN, for appellants.

Scott B. Lundquist, Lundquist Law Offices, P.A., Minneapolis, MN, for respondent.

Considered and decided by SHUMAKER, Presiding Judge; WILLIS, Judge; and PORITSKY, Judge. *

UNPUBLISHED OPINION

SHUMAKER, Judge.

*1 In these consolidated appeals from final judgment discharging garnishment proceedings, appellants challenge the district court decision that a pollution exclusion applied and that respondent insurer did not have a duty to defend or indemnify its insured, the underlying tortfeasor. Because

the terms of the pollution exclusion are unambiguous and the plain meaning of “pollutants” includes the dispersal of living organisms from the composting site, and because the applicable exclusion does not contain an exception for an additional insured, we affirm.

FACTS

Composting Concepts, Inc. operated a compost site in the city of Maplewood under contract with Ramsey County from June 22, 1994, through September 25, 1996. Appellants, residents in the vicinity of the site, sued Composting Concepts in 2001 on theories of nuisance, negligence, and intentional infliction of emotional distress, alleging that they suffered personal injuries and property damage from living organisms, mold, bacteria, and bioaerosols generated by the compost materials.

During its operation of the site, Composting Concepts was insured by respondent Farm Bureau Mutual Insurance Company under policies of commercial general liability (CGL) insurance policies.

In 2004, appellants and Composting Concepts entered into a *Miller–Shugart* settlement under which judgment of \$3 million was entered against Composting Concepts and appellants agreed to satisfy the judgment from proceeds of Farm Bureau's CGL policies. Relying in part on the pollution exclusion in its policies, Farm Bureau denied coverage.

Appellants brought garnishment actions against Farm Bureau to enforce the settlement, and a bench trial was held. The district court concluded that the pollution exclusion applied to preclude coverage and that appellants did not qualify as additional insureds who might otherwise receive coverage under the policy. It discharged the garnishment proceedings, and these consolidated appeals followed.

DECISION

“The interpretation of an insurance contract is a question of law as applied to the facts presented. We review questions of law de novo.” *Auto–Owners Ins. Co. v. Hanson*, 588 N.W.2d 777, 779 (Minn.App.1999) (citations omitted), *review denied* (Minn. Apr. 20, 1999). “While the insured bears the initial burden of demonstrating coverage, the insurer carries the burden of establishing the applicability of exclusions.” *Travelers Indem. Co. v. Bloomington Steel & Supply Co.*,

718 N.W.2d 888, 894 (Minn.2006). Exclusions “are construed narrowly and strictly against the insurer, and, like coverage, in accordance with the expectations of the insured.” *Id.* (citation omitted).

Farm Bureau's CGL policy provides coverage to the insured for damages for which the insured is liable because of applicable “bodily injury” or “property damage.” The district court ruled that appellants showed that they suffered applicable harm, and Farm Bureau does not dispute this determination. At issue here is whether Farm Bureau established that the pollution exclusion applied to preclude coverage as a matter of law.

*2 The CGL policy at issue¹ lists 14 paragraphs of exclusions to coverage, including a pollution exclusion found in paragraph 2(f)(1)(b). It provides, in relevant part, that the insurance does not apply to:

“Bodily injury” or “property damage” arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants:

....

At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;

....

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

(Emphasis added.) The only dispute is whether the living organisms, mold, bacteria, and bioaerosols that appellants alleged were dispersed from the composting site fall within the policy's definition of “pollutants.”

We must first determine whether the definition of “pollutants” in the policy is ambiguous. When a policy has a “pollution exclusion [that] is plainly designated as such,” the terms of the exclusion are to be construed “in accordance with the usual rules of interpretation governing insurance contracts. The reasonable expectation test is not a license to ignore the pollution exclusion ... nor to rewrite the exclusion solely to conform to a result that the insured might prefer.” *Bd.*

of *Regents of Univ. of Minn. v. Royal Ins. Co. of Am.*, 517 N.W.2d 888, 891 (Minn.1994) (addressing comprehensive general liability policy).

Whether a policy term is ambiguous is a question of law reviewed de novo. *Columbia Heights Motors, Inc. v. Allstate Ins. Co.*, 275 N.W.2d 32, 34 (Minn.1979). “If the language of the policy is reasonably subject to more than one interpretation, there is ambiguity. If it is not reasonably subject to more than one interpretation, there is no ambiguity.” *Id.* (citation omitted). A court must give the terms in the policy “their plain, ordinary, and popular meaning.” *Id.* (quoting *Ostendorf v. Arrow Ins. Co.*, 288 Minn. 491, 495, 182 N.W.2d 190, 192 (1970)). A court should not read an ambiguity into the plain language of the policy just to find coverage. *Id.*

The terms of a pollution exclusion are to be construed under a plain-meaning analysis, rather than by using a technical analysis that assumes the reader has knowledge of “terms of art” relating to environmental law. *Hanson*, 588 N.W.2d at 779 (construing version of pollution exclusion almost identical to one at issue in present case using a plain-language analysis); see *Royal Ins. Co.*, 517 N.W.2d at 890–93 (construing an earlier version of a pollution exclusion using a plain-language analysis). Guided by previous cases that have found policy terms unambiguous, we will apply a plain-language analysis here. See, e.g., *Milbank Ins. Co. v. Johnson*, 544 N.W.2d 56, 59 (Minn.App.1996) (stating this proposition as to terms of an exclusion in automobile insurance policy). Consequently, as the district court did, we will give the terms of the pollution exclusion at issue here their plain-language meaning.

*3 Appellants first cite extrinsic evidence from the trial in support of their argument that, from the point of view of the reasonable insured, the living organisms are not pollutants within the meaning of the policy. But such extrinsic evidence may be considered only if the terms to be interpreted are ambiguous. *Apple Valley Red–E–Mix, Inc. v. Mills–Winfield Eng’g Sales, Inc.*, 436 N.W.2d 121, 123 (Minn.App.1989), review denied (Minn. Apr. 26, 1989). We do not consider extrinsic evidence in analyzing the plain language of the policy.

Next, appellants cite a “Fungi or Bacteria Exclusion,” drafted by the Insurance Services Offices (ISO),² but not adopted by Farm Bureau. They assert that this creates an ambiguity in the pollution exclusion at issue here because the ISO exclusion

demonstrates that the pollution exclusion does not encompass living organisms. See *Orren v. Phoenix Ins. Co.*, 288 Minn. 225, 229, 179 N.W.2d 166, 169 (1970) (holding that when policy language is ambiguous, evidence as to subsequently adopted language illustrating ambiguity is admissible as written admission); *Am. Cas. Co. v. Bank of Mont. Sys.*, 675 F.Supp. 538, 543–44 (D.Minn.1987) (concluding policy language was ambiguous, and to underscore ambiguity of policy, citing fact that some insurers revised policies to remove ambiguous language). *Orren* is distinguishable because the revised policy language there had been adopted by the insurer and was used to illustrate policy language that the court determined was ambiguous. 288 Minn. at 229, 179 N.W.2d at 169. *Am. Cas. Co.* is distinguishable because it cited the revised policies of other insurers after the relevant policy was deemed ambiguous. 675 F.Supp. at 544. As the district court ruled in this case, the “Fungi or Bacteria Exclusion” is not part of the insurance policy at issue and is extrinsic evidence that, under *Apple Valley Red–E–Mix*, should be used only to interpret ambiguous terms.

Appellants also rely on their characterization of the pollutants as living organisms to argue that the pollution exclusion applies only to inorganic substances. They contend that, because the policy’s definition of pollutants identifies several inanimate substances as pollutants but does not refer to living organisms, the doctrine of *expressio unius est exclusio alterius* applies. They also cite the doctrine of *eiusdem generis*. But “resort to the maxims of contract construction is not available to create ambiguity.” *Colangelo v. Norwest Mortgage, Inc.*, 598 N.W.2d 14, 18 (Minn.App.1999), review denied (Minn. Oct. 21, 1999); see also *Lefto v. Hoggsbreath Enters., Inc.*, 581 N.W.2d 855, 857 (Minn.1998) (addressing the application of maxims in context of ambiguous language). Further, as the district court noted, the fact that the policy exclusions in *Royal Ins. Co.* and *Hanson* did not specifically refer to asbestos or lead did not preclude a determination that those substances were included within the ordinary meaning of pollutants. See *Hanson*, 588 N.W.2d at 781 (citing *Royal Ins. Co.*, 517 N.W.2d at 893–94, for the proposition that “a failure to specify [a substance] was not fatal or dispositive to the insurer’s claim”).

*4 Having rejected appellants’ arguments and determined that the policy term is unambiguous, we now apply a plain-language approach. “Pollutants” are defined in the policy as “any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste.” Appellants do not claim that the living organisms,

mold, bacteria, and bioaerosols were dispersed in other than a gaseous state or fumes. “Gaseous” is defined as “[o]f, relating to, or existing as a gas.” *The American Heritage Dictionary of the English Language* 749 (3d ed.1992). “Gas” is defined as “[t]he state of matter distinguished from the solid and liquid states.... A substance in the gaseous state.... A gaseous asphyxiant, irritant, or poison.” *Id.* “Fume” is defined as “[v]apor, gas, or smoke, especially if irritating, harmful, or strong.” *Id.* at 734. The term “contaminant” means “[o]ne that contaminates.” *Id.* at 406. In turn, “contaminate” means “[t]o make impure or unclean by contact or mixture.” *Id.* Similarly, “irritant” is defined as “[c]ausing irritation, especially physical irritation.” *Id.* at 954. And “irritation” is “[a] condition of inflammation, soreness, or irritability of a bodily organ or part.” *Id.*

As the district court noted, appellants are alleging that their homes and bodies were infiltrated with the living organisms, mold, bacteria, and bioaerosols dispersed from the composting site. As it concluded, “It is difficult to imagine a more clear-cut scenario where a substance could be classified as a contaminant.” We agree. The essence of appellants’ claim is that the living organisms dispersed from the composting site contaminated or irritated their bodies and homes. Further, there is no basis in the policy language for distinguishing organic from inorganic contaminants; they are both contaminants.

In *Royal Ins. Co.*, the supreme court stated that it “would be doing a disservice to the English language if we were to say that asbestos fibers, which are a health hazard because of their irritant effects on the human body, were not an irritant.” 517 N.W.2d at 892. In *Hanson*, this court followed *Royal Ins. Co.* and concluded that lead in paint was a pollutant. 588 N.W.2d at 779. The parties also cite a number of cases from other jurisdictions to support their arguments. Most significant, of course, are those few that have specifically addressed dispersals from composting sites and that also apply a plain-language, rather than a technical, analysis to the pollution exclusion. *City of Spokane v. United Nat’l Ins. Co.*, 190 F.Supp.2d 1209, 1219 (E.D.Wash.2002) (holding that “[m]igration of odors from a solid waste facility clearly constitutes contamination, or pollution, of the environment.”); see also *Cold Creek Compost, Inc. v. State Farm Fire & Cas. Co.*, 156 Cal.App.4th 1469, 68 Cal.Rptr.3d 216, 223–28 (Cal.Ct.App.2007) (applying the ordinary meaning of the words of the policy, citing *City of Spokane*, and holding that the odors at issue “polluted” the air as the term “pollute” is commonly understood, review

denied (Cal. Feb. 20, 2008). *Royal Ins. Co.* and *Hanson*, as well as the cases from the foreign jurisdictions that apply a plain-language analysis, support the determination that the dispersals from the composting site constitute pollutants under the plain meaning of the policy language.

*5 Appellants argue, however, that *Hanson* and *Royal Ins. Co.* are distinguishable. First, they argue that the substances deemed to be pollutants in those cases had been regulated and well-known to be harmful, so that the court’s determinations that the substances constituted pollutants “is unsurprising.” In *Hanson*, this court ruled that under a plain-meaning analysis, lead in paint qualified as a pollutant and was subject to the pollution exclusion. 588 N.W.2d at 780. Appellants argue that before *Hanson*, lead was considered to be a pollutant because lead-based paint has long been regulated by state and federal law. See, e.g., 16 C.F.R. § 1303.1(a) (banning paint containing lead in excess of prescribed amount); Minn.Stat. §§ 144.9501–.9509 (2006) (Lead Poisoning Prevention Act). Appellants also argue that *Royal Ins. Co.*, 517 N.W.2d at 892–93, in which the supreme court ruled that asbestos fibers were an irritant within an earlier pollution exclusion, is distinguishable because the dangers inherent with the inhalation of asbestos were well known. See, e.g., Minn.Stat. §§ 326.70–.81 (2006) (Asbestos Abatement Act).

Composting, however, is also subject to regulation. The Minnesota Pollution Control Agency has promulgated rules governing the owner and operator of yard-waste compost facilities. Minn. R. 7035.2836, subpts. 1–3 (2007). These rules provide, in relevant part, that the compost “must be produced by a process that includes turning of the yard waste on a periodic basis to aerate the yard waste, maintain temperatures, and reduce pathogens.” *Id.*, subpt. 3(B) (emphasis added); see *Sletten v. Ramsey County*, 675 N.W.2d 291, 294–97 (Minn.2004) (addressing immunity claims in appeal involving same underlying facts and describing Ramsey County’s “permit-by-rule” approval letter from MPCA and its conditional use permit issued by city).

Next, appellants cite this court’s language in *Hanson* that “there must be a limit to the construction of what constitutes an irritant or contaminant, or the exclusion renders the policy illusory.” 588 N.W.2d at 781. *Hanson* gave examples of items that would not be considered pollutants, including “scalding water ..., spoiled food, and trash on a stairway.” *Id.* Similarly, appellants contend that mold and other living organisms are not in themselves harmful substances, unless manufactured, incubated, and dispersed in massive quantities, as appellants

allege occurred at the compost site. Contending that the living organisms fit within the limiting principles in *Hanson*, appellants argue that the pollution exemption does not apply.

The district court rejected this argument, stating it was “satisfied” that the dispersal of living organisms from a composting site does not fall within the limitations set out in *Hanson*. Further, as respondent points out, *Hanson* did not find it significant “that lead in paint affixed to the wall and not released might not be harmful and thus not considered a pollutant.” *Id.* Instead, this court stated that “[i]t is not so much less a pollutant as it is then a pollutant in a dormant state.” *Id.* This court noted the argument was similar to a claim “that because gas in an underground tank is not a pollutant, the gas is not a pollutant when it seeps into the ground,” which it also rejected. *Id.* We agree that the facts here do not fall within the *Hanson* limits to the pollution exclusion, and instead fall within the plain meaning of pollutants. Consequently, the pollution exclusion precludes coverage.

*6 Finally, appellants argue that there is coverage under an exception to the pollution exclusion that exists when an “additional insured” is added to the policy. This exception is found in paragraph 2(f)(1)(a) of the pollution exclusion and

was added in 1999. Because there is no similar exception to paragraph 2(f)(1)(b) of the pollution exclusion at issue here, appellants' argument is a non sequitur, as there is no basis for holding that the “additional insured” language applies.

While respondent makes an additional argument that the “actual injury trigger rule” determines which policies may be at issue, the district court did not address the issue. Consequently, it is not properly before this court. *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn.1988) (stating that an appellate court will generally address only those matters raised and considered by the district court). Further, respondent did not file a notice of review under Minn. R. Civ.App. P. 106. This court will not address issues raised by a respondent who fails to file a notice of review. *City of Ramsey v. Holmberg*, 548 N.W.2d 302, 305 (Minn.App.1996), review denied (Minn. Aug. 6, 1996).

Affirmed.

All Citations

Not Reported in N.W.2d, 2008 WL 2020489

Footnotes

- * Retired judge of the district court, serving as judge of the Minnesota Court of Appeals by appointment pursuant to Minn. Const. art. VI, § 10.
- 1 The relevant language in appellants' policies from 1994 to 1996 was identical and unchanged; thus we refer to a single policy language.
- 2 ISO drafts insurance policy language that insurance carriers contracting with ISO may adopt.

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Kenneth Seifert d/b/a The Hair Place and
Harmar Barbers, Inc., individually and on
behalf of all others similarly situated.

Civil File No: 20-cv-01102 JRT/DTS

Plaintiffs,

v.

IMT Insurance Company,

Defendant.

**EXHIBIT G TO DEFENDANT'S
MOTION TO DISMISS**

2009 WL 2524613

Only the Westlaw citation is currently available.
United States District Court,
S.D. Florida.

FIRST SPECIALTY INSURANCE
CORPORATION, Plaintiff,

v.

GRS MANAGEMENT ASSOCIATES, INC.,
Nautica Isles West Homeowners Association,
Inc., and Jeannine Le and Thyng Le,
individually and as parents natural and legal
guardians of Thailor Le, a minor, Defendants.
Philadelphia Indemnity Insurance Company,
a Pennsylvania corporation, Plaintiff,

v.

Nautica Isles West Condominium Association,
Inc., GRS Management Associates, Inc. and
Jeannine Le and Thyng Le, individually
and as parents natural and legal guardians
of Thailor Le, a minor, Defendants.

No. 08-81356-CIV.

Aug. 17, 2009.

West KeySummary

1 Insurance 🔑 Pollution

An general liability insurer did not have a duty to defend an insured homeowners association against a claim brought by a swimming pool guest. The guest alleged that he contracted the Cocksackie virus from contaminants within the water of a pool maintained by the insured. The insured's coverage for the guest's claims was barred by the pollutant exclusion of the general liability policy which applied to the contaminants allegedly present in the swimming pool under Florida law.

Attorneys and Law Firms

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Mary Park Morris, Morris & Morris PA, West Palm Beach, FL, Christopher Anthony Sajdera, Jonathan Seth Morris, Jay Steven Levine PA, Boca Raton, FL, Diana Leigh Martin, Ricci Leopold, Palm Beach Gardens, FL, William John McFarlane, III, McFarlane & Dolan, Coral Springs, FL, for Defendants.

OPINION AND ORDER

KENNETH A. MARRA, District Judge.

***1** This cause is before the Court upon First Specialty Insurance Corporation's ("FSIC") Motion for Partial Summary Judgment (DE 10) and Philadelphia Indemnity Insurance Company's ("PIIC") Amended Motion for Summary Final Judgment (DE 89). The motions are fully briefed and ripe for review. The Court held oral argument on the motions on July 24, 2009. The Court has carefully considered the motions and is otherwise fully advised in the premises.

I. Background

The facts, as culled from the exhibits provided and reasonably inferred therefrom in a light most favorable to Defendants, for the purpose of this motion, are as follows:

On or about May 20, 2008, the Nautica Isles West Homeowners Association, Inc. ("the Association") and GRS Management Associates, Inc. ("GRS") were named as defendants in an action styled *Jeannine Le and Thailor Le, et al. v. Nautica Isles West Homeowners Association, Inc. et al.*, Case No.2008 CA 014580XXXMB brought before the Circuit Court for the 15th Judicial Circuit in and for Palm Beach County, Florida. (State court complaint, Ex. A to DE 96.) The Association is a homeowners association for the residential community known as Nautica Isles West located in Greenacres, Florida. (State court compl. ¶ 4.) GRS is the property management company which at all relevant times managed the Association's property, including its swimming pool. (State court compl. ¶ ¶ 15-17.) With respect to the Association and GRS, the Le complaint alleges, among other things, the following:

Defendant knew or should have known that said swimming pool was improperly maintained and posed a substantial health risk to the health, safety and welfare of those individuals swimming in the defendant's swimming pool. (State court compl. ¶¶ 8, 20.)

On or about June 1, 2004 ... Thailor Le was swimming in the Defendant's swimming pool when Thailor Le was exposed to the dangerous, hazardous, and unsafe sanitary conditions of the Defendant's swimming pool. (State court compl. ¶¶ 10, 22.)

In pre-suit correspondence, Le's counsel advised GRS that Thailor Le was injured "after he contracted a viral infection from contaminants within the water of the Nautica Isles West community pool."¹ (Mar. 4, 2008 letter, Ex. B-1, attached to DE 96.) An expert toxicologist's report submitted by the Les stated that Thailor Le contracted the Cocksackie virus as a result of ingesting swimming pool water in the Nautica Isles West community swimming pool. In addition, the expert report stated that chlorination of swimming pool water is "an effective way to kill harmful microbes, including Cocksackie viruses." (Harold I. Zelig Letter, Ex. B-3, attached to DE 96.)

PIIC issued a primary general liability policy number PHPK053395 to the Association as the Named Insured; GRS also qualified as an insured under this policy. (PIIC Policy, DE 73.) PIIC's primary policy covered the period of June 30, 2003 to June 30, 2004 and provided coverage for "bodily injury" in the amount of \$1,000,000.00 per occurrence. The primary policy contained the following Total Pollution Exclusion Endorsement (form CG 21 49 09 99) (NI-0094, Exhibit C, DE 96.):

***2 2. Exclusions**

This insurance does not apply to:

f. Pollution

(1) "Bodily injury" or "property damage" which would not have occurred, in whole or in part, but for the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

The term "pollutant" is defined in the policy as follows:

SECTION V-DEFINITIONS

"Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed. (Exhibit C, p. NI-0086)

PIIC also issued to the Association an excess liability policy number PHUB020208, which covered the same period of time and which provided an additional \$2,000,000 in coverage. (DE 73.) The excess policy contains a similar pollution exclusion which provides as follows:

3. Exclusions

This insurance does not apply to:

(p) "Bodily injury", "personal injury" or "property damage" arising out of the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants.

We shall have no obligation under this policy:

- (1) To investigate, settle or defend any claim or suit against any insured alleging actual or threatened injury or damage of any nature or kind to persons or property which arises out of or would not have occurred but for the "pollution hazard", or,
- (2) To pay any damages, judgments, settlements, loss, costs or expenses that may be awarded or incurred by reason of any such claim or suit of any such injury or damage, or in complying with any action authorized by law and relating to such injury or damage.

As used in this exclusion:

"Pollution hazard" means an actual exposure or threat of exposure to the corrosive, toxic or other harmful properties to any solid, liquid, gaseous or thermal pollutants, contaminants, irritants or toxic substances, including smoke, vapors, soot, fumes, acids or alkalis, and waste materials consisting of or containing any of the foregoing.

(NI-0124, Ex. D, DE 96.)

With respect to FSIC, under policy number FCP211000647200, effective December 5, 2003 to December 5, 2004, FSIC provided commercial general liability coverage to GRS pursuant to a Commercial General Liability Coverage Form, form no. CG 00 01 10 01. The named insured on the policy is G.R.S. Management Associates. (Policy, Ex. C, DE 11.)

The Commercial General Liability Coverage Form provides in relevant part:

SECTION I-COVERAGES

COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of “bodily injury” or “property damage” to which this insurance applies....

The First Specialty policy contains a Total Pollution Exclusion Endorsement, form no. CG 21 49 09 99, which provides in pertinent part as follows:

*3 This insurance does not apply to:

f. Pollution

(1) “Bodily injury” or “property damage” which would not have occurred in whole or in part but for the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of “pollutants” at any time.

The First Specialty policy contains the following definitions:

SECTION V-DEFINITIONS

3. “Bodily injury” means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.

14. “Personal and advertising injury” means injury, including consequential “bodily injury”...

15. “Pollutants” mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

(Policy, Ex. C, DE 11.)

II. Summary Judgment Standard

The Court may grant summary judgment “if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Fed.R.Civ.P. 56(c). The stringent burden of establishing the absence of a genuine issue of material fact lies with the moving party. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986). The Court should not grant summary judgment unless it is clear that a trial is unnecessary, *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255, 106 S.Ct. 2505, 91 L.Ed.2d 202 (1986), and any doubts in this regard should be resolved against the moving party. *Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 157, 90 S.Ct. 1598, 26 L.Ed.2d 142 (1970).

The movant “bears the initial responsibility of informing the district court of the basis for its motion, and identifying those portions of [the record] which it believes demonstrate the absence of a genuine issue of material fact.” *Celotex Corp.*, 477 U.S. at 323. To discharge this burden, the movant must point out to the Court that there is an absence of evidence to support the nonmoving party’s case. *Id.* at 325.

After the movant has met its burden under Rule 56(c), the burden of production shifts and the nonmoving party “must do more than simply show that there is some metaphysical doubt as to the material facts.” *Matsushita Electronic Industrial Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586, 106 S.Ct. 1348, 89 L.Ed.2d 538 (1986). According to the plain language of Fed.R.Civ.P. 56(e), the non-moving party “may not rest upon the mere allegations or denials of the adverse party’s pleadings,” but instead must come forward with “specific facts showing that there is a genuine issue for trial.” Fed.R.Civ.P. 56(e); *Matsushita*, 475 U.S. at 587.

Essentially, so long as the non-moving party has had an ample opportunity to conduct discovery, it must come forward with affirmative evidence to support its claim. *Anderson*, 477 U.S. at 257. “A mere ‘scintilla’ of evidence supporting the opposing party’s position will not suffice; there must be a sufficient showing that the jury could reasonably find for that party.” *Walker v. Darby*, 911 F.2d 1573, 1577 (11th Cir.1990). If the evidence advanced by the nonmoving party “is merely colorable, or is not significantly probative, then summary

judgment may be granted.” *Anderson*, 477 U.S. 242, 249-50, 106 S.Ct. 2505, 91 L.Ed.2d 202.

III. Discussion

*4 FSIC moves for partial summary judgment, seeking a ruling that it has no duty to indemnify any insured in connection with the Le's claims in the underlying state court action. PIIC moves for summary judgment on both its duty to defend and to indemnify for the claims asserted in the underlying state court action. Before interpreting the insurance policies, however, the Court must first address the facts presented regarding the underlying state case.

The state court complaint alleged that Thailor Le was injured as a result of exposure to “dangerous, hazardous, and unsafe sanitary conditions” in the community swimming pool. (State court compl. ¶¶ 10, 22.) Specifically, Thailor Le “contracted a viral infection from contaminants within the water of the Nautica Isles West community pool.” (Mar. 4, 2008 letter.) This viral infection was identified as the Cocksackie virus, which was contracted from “ingesting swimming pool water in the Nautica Isles West community swimming pool.” Significantly, chlorination of swimming pool water is an “an effective way to kill harmful microbes, [such as the] Cocksackie viruses.” (Harold I. Zeliger Letter.)

Despite Defendants' protestations, it is proper for the Court to consider this evidence. Neither the pre-suit letter nor the letter from the expert, Mr. Zeliger, is barred under Rule 408 of the Federal Rules of Evidence. To begin, the pre-suit letter made no offer to compromise or settle the Le's claim. Instead, the letter merely requested that GRS provide the Le's attorney with insurance information pursuant to Florida Statute § 627.4137 and information regarding the existence of any third-parties who may be liable for Thailor Le's injuries. Next, despite Defendants' complaint that Mr. Zeliger's letter was attached to the settlement demand letter,² that fact, if true, would not require the exclusion of this letter under Rule 408 of the Federal Rules of Evidence. Indeed, evidence presented during settlement negotiations does not prevent its discovery and use as long as that evidence is otherwise discoverable. *See NAACP Legal Defense Fund and Education Fund, Inc. v. United States Dept. of Justice*, 612 F.Supp. 1143 (D.D.C.1985) (“Although the intent of Fed.R.Evid. 408 is to foster settlement negotiations, the sole means used to effectuate that end is a limitation on the admission of evidence produced during settlement negotiations for the purpose of proving liability at trial. It was never intended to be a broad

discovery privilege.”); 2 Jack B. Weinstein & Margaret A. Berger, *Weinstein's Federal Evidence*, § 408.07 (Joseph M. McLaughlin, ed., Matthew Bender 2d ed.2005). Thus, in determining insurance coverage, the Court will consider the admissions by the Les that Thailor Le's injuries were caused by a viral contaminant and/or microbe.

Turning now to the coverage issue, the Court begins, as it must, by looking to the language of the insurance contract. Under Florida law, the interpretation of an insurance contract is a matter of law to be decided by the Court. *Gas Kwick, Inc. v. United Pac. Inc. Co.*, 58 F.3d 1536, 1539 (11th Cir.1995). “When an insurance contract is not ambiguous, it must be given effect as it is written.” *Siegle v. Progressive Consumers Ins. Co.*, 819 So.2d 732, 735 (Fla.2002). An operative term is not ambiguous by virtue of the fact that it is not defined. *Swire Pacific Holdings, Inc. v. Zurich Ins. Co.*, 845 So.2d 161, 166 (Fla.2003); *see Jefferson Ins. Co. v. Sea World*, 586 So.2d 95, 97 (Fla.Dist.Ct.App.1991) (“The mere failure to provide a definition for a term involving coverage does not necessarily render the term ambiguous”). Simply put, “where the language in a policy is plain and unambiguous, there is no special construction or interpretation required, and the plain language of the policy will be given the meaning it clearly expresses.” *Fla. Farm Bureau Ins. v. Birge*, 659 So.2d 310, 312 (Fla.Dist.Ct.App.1994).

*5 As defined under the plain language of the policy, the meaning of the term pollutant includes contaminant. Furthermore, cases from this jurisdiction have ruled that similar pollutant clauses encompass “contaminants” and microbes. *See, e.g., Philadelphia Indemnity Insurance Co. v. Yachtman's Inn Condo Ass'n Inc.*, 595 F.Supp.2d 1319 (S.D.Fla.2009) (concluding that feces, raw sewage and battery acid fall within the policy pollutant definition of irritant or contaminant); *Nova Casualty Co. v. Waserstein*, 424 F.Supp.2d 1325, 1333-34 (S.D.Fla.2006) (finding “living organisms,” “microbial populations,” “airborne and microbial contaminants,” and “indoor allergens” fit the definition of “contaminant” and are excluded from coverage under the pollution exclusion clause); *Deni Associates of Florida, Inc. v. State Farm Fire & Cas. Ins. Co.*, 711 So.2d 1135, 1139 (Fla.1998) (rejecting the argument that the pollutant exclusion is ambiguous because the word “contaminant” is not defined).³ (emphasis added) Clearly, the record evidence demonstrates that the substance in the swimming pool was a viral contaminant and a harmful microbe. Thus, the pollutant exclusion applies here.⁴

It is important to note that Defendants have not presented any evidence which would raise a genuine issue of material fact as to the cause of Thailor Le's injuries. The procedural posture they have chosen to take is merely to assert that Plaintiffs have not proven the cause of the injuries. Plaintiffs, however, have relied upon admissions from the Les, the parties claiming the injury and the parties in the best position to know the cause. There is no reason why Plaintiffs should not be entitled to rely upon admissions from the parties claiming the injury to prove causation in this case. No Defendant has even suggested that the injury had a different cause. Nor can Defendants rely upon a lack of discovery taken in this proceeding. The rule that granting summary judgment is improper before a party has had an adequate opportunity to take discovery applies in cases where the evidence necessary to respond to the summary judgment motion is not within the non-moving party's possession, custody or control. Fed.R.Civ.P. 56(f); see *Walters v. City of Ocean Springs*, 626 F.2d 1317, 1321 (5th Cir.1980).⁵ (a Rule 56(f) motion is more likely to be granted when relevant facts are in exclusive control of the opposing party). Here, the information relating to the cause of Thailor Le's injuries is within the control of the Le Defendants and it is the evidence that they have produced which is being used to support Plaintiff's motion. For example, the Le Defendants have used Dr. Zeliger's report in the state court action to support their theory of causation.⁶ The other Defendants, who have litigated against the Les in the underlying state court proceeding and had the opportunity to conduct discovery there to determine another cause, have presented nothing to

suggest a record could be developed in this case which might create a genuine issue of material fact regarding causation.

*6 Based on the foregoing, the Court finds that the pollution exclusion of both FSIC and PIIC's policies unambiguously apply to contaminant allegedly present in the swimming pool. Thus, the Court concludes that PIIC has shown that it has no duty to defend or indemnify and FSIC has shown that it has no duty to indemnify in the underlying litigation.

IV. Conclusion

Accordingly, it is hereby **ORDERED AND ADJUDGED** as follows:

- 1) FSIC's Motion for Partial Summary Judgment (DE 10) is **GRANTED**. FSIC shall inform the Court **within 10 days from the date of entry of this Order** as to how this case should proceed.
- 2) PIIC's Amended Motion for Summary Final Judgment (DE 89) is **GRANTED**.

The Court will separately issue judgment for PIIC.

DONE AND ORDERED.

All Citations

Not Reported in F.Supp.2d, 2009 WL 2524613

Footnotes

- 1 The letter also requested insurance information pursuant to Florida Statute § 627.4137 and information regarding third-parties who might be liable for Thailor Le's injuries.
- 2 The Court is not considering the demand letter submitted by FSIC and PIIC (Demand Letter, Ex. B, DE 11; Demand Letter, Ex. B-2, DE 96). There is, however, a factual dispute as to whether Mr. Zeliger's letter was attached to the demand letter. Of course, on a motion for summary judgment, the Court must take the facts in the light most favorable to the non-moving party. Thus, the Court will assume, for the purpose of these motions, that Mr. Zeliger's letter was attached to the demand letter.
- 3 The Court chooses not to follow *Keggi v. Northbrook Prop. & Cas. Ins. Co.*, 199 Ariz. 43, 13 P.3d 785, 789 (Ariz.App.Div.2000) (finding water-borne bacteria did not fit within definition set forth in pollutant exclusion) as suggested by the Le Defendants.
- 4 The Court need not address FSIC's argument that the fungi or bacteria exclusion endorsement applies to the facts of this case.
- 5 The decisions of the United States Court of Appeals for the Fifth Circuit, as that court existed on September 30, 1981, handed down by that court prior to the close of business on that date, shall be binding as precedent in the Eleventh Circuit, for this court, the district courts, and the bankruptcy courts in the circuit. *Bonner v. Pritchard*, 661 F.2d 1206, 1207 (11th Cir.1981) (en banc).
- 6 At the oral argument, the parties informed the Court that this evidence was stricken in the state case, however, that fact does not change the Court's analysis in this case.

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UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Kenneth Seifert d/b/a The Hair Place and
Harmar Barbers, Inc., individually and on
behalf of all others similarly situated,

Civil File No: 20-cv-01102 JRT/DTS

Plaintiffs,

v.

IMT Insurance Company,

Defendant.

**EXHIBIT H TO DEFENDANT'S
MOTION TO DISMISS**

2014 WL 12601039

Only the Westlaw citation is currently available.
United States District Court, D. Minnesota.

GUARANTY TITLE, INC.,
Plaintiff/Counter Defendant,

v.

ALTERRA EXCESS & SURPLUS INSURANCE
COMPANY, Defendant/Counter Claimant.

Civil No. 14–CV–0028 (DSD/TNL)

Signed 11/19/2014

Attorneys and Law Firms

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ORDER

Magistrate Judge Tony N. Leung, United States District Court
District of Minnesota

*1 This matter is before the Court, Magistrate Judge Tony N. Leung, on Plaintiff Guaranty Title, Inc.'s (“Guaranty”) motion to compel discovery and its ancillary motions for fees and costs and to strike discovery objections (ECF No. 15).¹ The Court heard oral argument on the motion. (See ECF No. 26.) Jeffrey R. Mulder of Bassford Remele, PA represented Guaranty. Joseph J. Borders of Walker Wilcox Matousek, LLP and Aaron Mills Scott of Oppenheimer Wolff & Donnelly LLP represented Defendant Alterra Excess & Surplus Insurance Company (“Alterra”). At oral argument, the Court ordered further briefing from the parties, which was received September 29, 2014. Based on all the files, records, and proceedings herein, the Court will **GRANT IN PART** and **DENY IN PART** the motions to compel and to strike discovery objections and **DENY** the motion for fees and costs.

I. BACKGROUND

Guaranty provides title examinations, closing services, escrow services, title insurance, and other services to customers in the commercial real estate industry. (Pl.'s Mem. in Supp. at 1.) Guaranty purchased an insurance policy from Alterra that was effective from August 21, 2012, to August 21, 2013. (Compl. ¶ 4, ECF No. 1–1; *see also* Answer at 2, ECF No. 8.) The insurance policy was a professional liability policy for title agents, abstractors, and escrow agents that covered “claims first made during the policy period and reported to [Guaranty] during the policy period.” (Answer Ex. 2 at 2.) Guaranty asserts that Alterra failed to defend Guaranty or acknowledge its duties to defend and indemnify Guaranty in three actions instituted during the policy period. (Compl. ¶¶ 6–7.) Guaranty seeks damages and a declaratory judgment that Alterra has a duty to defend and indemnify it against the suits it tendered to Alterra. (*Id.* ¶¶ 12, 17, 22, 26.)

In response, Alterra asserts that Guaranty was aware of the circumstances giving rise to the tendered claims before it purchased the policy and that the insurance policy therefore excludes coverage for those claims. (*Id.* at 7, ¶¶ 1, 3.) Alternately, Alterra asserts that the claims are barred as prior or pending litigation. (*Id.* at 7, ¶ 2.) Alterra counterclaims for declaratory judgments that it does not have a duty to defend or indemnify Guaranty. (*Id.* at 10–11.)

Guaranty served discovery requests on Alterra on May 6, 2014. (Pl.'s Mem. in Supp. at 3.) When Alterra responded to the discovery, it objected to every request. (*Id.* at 5.) On July 28, 2014, Guaranty sent a meet-and-confer letter challenging Alterra's responses. (*Id.* Ex. J.) On August 29, 2014, Guaranty filed the instant motion. (See ECF No. 15.) Guaranty seeks an order compelling discovery; striking all objections asserted by Alterra; ordering Alterra to provide full and complete responses to its discovery requests within seven days; and granting it the attorneys' fees and costs incurred in bringing the motion. (Pl.'s Mem. in Supp. at 17–18.)

*2 The parties have resolved most of the disputed discovery requests. (See ECF No. 26.) However, the parties continue to disagree on the relevance of certain requests (the “Outstanding Discovery”). (See *id.*) Specifically, the Outstanding Discovery is:

Document Request No. 22: All DOCUMENTS, whether or not they are still in current use, that in any way evidence or relate to [Alterra's] guidelines, policies, rules, instructions, operating procedures or claims manuals concerning [Alterra's] review or analysis of, and/or acknowledgment or denial of coverage for any claim

under professional liability policies issued by [Alterra], including without limitation policies entitled: “TITLE AGENTS, ABTRACTOR AND ESCROW AGENTS PROFESSIONAL LIABILITY INSURANCE POLICY.

(*Id.* at 6.)

(*Id.* Ex. G at 6.)

Document Request No. 23: All insurance applications [Alterra] received from individuals or entities in response to which [Alterra] refused to issue a TITLE AGENTS, ABSTRACTORS AND ESCROW AGENTS PROFESSIONAL LIABILITY INSURANCE POLICY due to information or potential claims disclosed to [Alterra] from January 1, 2007 to the present.

Interrogatory No. 16: IDENTIFY all individuals or entities to which [Alterra] refused to issue a liability insurance policy due to information or potential claims disclosed to [Alterra], including disclosures contained in an insurance policy application, since January 1, 2007.

(*Id.* at 7.)

(*Id.* at 9.)

Document Request No. 24: All insurance applications [Alterra] received from individuals or entities in response to which [Alterra] issued a TITLE AGENTS, ABSTRACTORS AND ESCROW AGENTS PROFESSIONAL LIABILITY INSURANCE POLICY from January 1, 2007 to the present.

The Outstanding Discovery relates to Guaranty's assertion that Alterra has raised a known-loss defense. (*See* Pl.'s Mem. in Supp. at 15.) Guaranty states that this defense will require Alterra to prove that “(1) Guaranty ... failed to disclose something on its insurance application, and (2) if Alterra had known that something, it would not have issued the insurance policy.” (*Id.* at 16.) Guaranty further states that the Outstanding Discovery is “directly relevant to this issue because these materials will demonstrate how Alterra has responded to other disclosures.” (*Id.*) For its part, Alterra denies that it raised a known-loss defense. (Def.'s Suppl. Mem. in Opp'n at 2.) It further states that even if it had, the correct standard would be whether a misrepresentation increased its risk of loss. (*Id.* at 5.)

II. ANALYSIS

A. Standard of Review

Federal Rule of Civil Procedure 26(b)(1) allows a party “to obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense.” Although relevance is construed liberally, it “is not without bounds.” *Bredemus v. Int'l Paper Co.*, No. 07-cv-1349 (RHK/JSM), 252 F.R.D. 529, 533 (D. Minn. 2008). This Court “has considerable discretion in granting or denying discovery requests.” *Id.* at 534. As “requests approach the outer bounds of relevance and the information requested may only marginally enhance the objectives of providing information to the parties or narrowing the issues, the Court must then weigh that request with the hardship to the party from whom the discovery is sought.” *Carlson Cos.v. Sperry & Hutchinson Co.*, 372 F.Supp. 1080, 1088 (D. Minn. 1974). “[T]he court must limit

(*Id.*)

Interrogatory No. 15: If [Alterra] contend[s] that [it] would not have issued the POLICY or any other policy of insurance to [Guaranty] if [Alterra] had known information related to the CLAIMS, STATE THE BASIS for [Alterra's] contention.

the ... extent of discovery ... if it determines that ... the burden or expense of the proposed discovery outweighs its likely benefit, considering the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.” Fed. R. Civ. P. 26(b)(2)(C).

B. The Outstanding Discovery Is Not Relevant To Any Claim or Defense In This Case

*3 The Outstanding Discovery relates to Guaranty's claim that Alterra is asserting a known-loss defense. The defense at issue is Alterra's assertion that coverage for the tendered claims is barred because Guaranty did not disclose the circumstances underlying the claims on its insurance application. (Answer at 7, ¶ 3.)² Guaranty states that this defense will require Alterra to prove that “(1) Guaranty ... failed to disclose something on its insurance application, and (2) if Alterra had known that something, it would not have issued the insurance policy.” (Pl.'s Mem. in Supp. at 16.) The Outstanding Discovery would then be relevant because it would show how Alterra has responded to similar disclosures from other applicants. (*Id.*)

Alterra argues that the Outstanding Discovery pertains to “unrelated claims submitted by unrelated insureds[,]” and producing it would be “outrageously burdensome and a waste of time and effort.” (Def.'s Mem. in Opp'n at 10.) It asserts that its defense is only that Guaranty knew about the tendered claims at the time it applied for the policy, and whether Alterra would have issued the policy if it were aware of the prior litigation is irrelevant to that defense. (Def.'s Suppl. Mem. in Opp'n at 4.) It further asserts that responding to these requests would require it to undertake the burden of reviewing every application it has accepted or rejected (that is, all applications). (*See* ECF No. 26.) The Court agrees with Alterra.

First of all, the Court notes that the “known-loss doctrine is a common law concept based on the idea that insurance cannot be issued for a loss in which there is no longer any risk.” *Sand Cos. v. Gorham Hous. Partners III, LLP*, No. A10–113, 2010 WL 5154378, at *7 (Minn. Ct. App. Dec. 21, 2010) (citations omitted). Courts read the known-loss doctrine into insurance policies “to prevent an insured from recovering for loss or damage that the insured already knew about at the time it procured insurance.... The known-loss doctrine applies in the *absence* of a known-injury-or-damage provision in the contract itself.” *Id.* at *8 (citing *Travelers Cas. & Surety*

Co. v. Dormitory Auth.—State of New York, 732 F.Supp.2d 347, 362 (S.D.N.Y. 2010)). Where “the issue in th[e] case is not whether a fraud prevents coverage [but is] whether a particular provision in the contract bar[s] coverage,” *id.* at *7, the known-loss doctrine is inapplicable.

In light of the above, the known-loss doctrine does not apply to the instant case. Guaranty's policy with Alterra contains a “known-injury-or-damage” provision. (*See* Answer Ex. 2 at 2.) As a result, the known-loss doctrine is inapplicable. *See Sand Cos.*, 2010 WL 5154378, at *8.

Guaranty and Alterra both now point to Minnesota Statutes § 60A.08, subd. 9, which courts also look to when an insurer attempts to preclude coverage due to misrepresentations by an applicant. The statute provides:

No oral or written misrepresentation made by the assured, or in the assured's behalf, in the negotiation of insurance, shall be deemed material, or defeat or avoid the policy, or prevent its attaching, unless made with intent to deceive and defraud, or *unless the matter misrepresented increases the risk of loss.*

Minn. Stat. § 60A.08, subd. 9 (emphasis added).

Courts have been somewhat inconsistent in their application of this and closely related statutes. Specifically, they have differed on whether a party must show (1) only that a misrepresentation increased the risk of loss or (2) that the insurer would not have issued the policy had it been aware of the misrepresentation. *See, e.g., Pioneer Indus., Inc. v. Hartford Fire Ins. Co.*, 639 F.3d 461, 468 (8th Cir. 2011) (“[I]f [insurer] can prove a misrepresentation increased its risk of loss, it is entitled to avoid the policy irrespective of whether or not it would have issued the policy.”); *Interstate Indem. Co v. Ulven*, No. 07–cv–4029 (PJS/JJG), 2009 WL 2208213, at *7 (D. Minn. July 22, 2009) (“[T]he insurer must demonstrate that, but for the misrepresentation, it would not have insured the risk *at all*.”); *Ins. Co. of the State of Penn. v. Hoffman*, 814 F.Supp. 782, 786 (D. Minn. 1993) (“‘[R]isk of loss’ refers to the likelihood that the insurance company will be liable in the future” and whether an insurer would have charged a higher premium for an increased *cost* of loss

is irrelevant for determining the risk of loss.); *Howard v. Aid Assoc. for Lutherans*, 272 N.W.2d 910, 912–13 (Minn. 1978) (“[T]he focal examination must be whether an omission or misrepresentation substantially affects or impairs an insurer's ability to make a reasonable decision to assume the risk of coverage,” but “[n]either decisional nor statutory authority in this state requires more than that an insured wilfully misstate necessary information or intentionally mislead the insurer into issuing a policy for coverage.”); *In re Silicone Implant Ins. Coverage Lit.*, 652 N.W.2d 46, 77 (Minn. Ct. App. 2002) (stating that the risk of loss is increased if a misrepresentation “impairs the insurer's ability to make a reasonable decision initially to assume the risk of coverage,” but also “when there is a greater likelihood that the insurer will be liable in the future than there would have been if the facts were as the insured stated them to be”), *rev'd on other grounds*, 667 N.W.2d 405 (Minn. 2003).

*4 The Eighth Circuit recently decided a case that is instructive on this point. In that case, as here, the “[Plaintiff–Insured] contend[ed] the correct legal standard [under Minn. Stat. § 60A.08(9)] requires an insurer to prove, but for the misrepresentations, it would not have issued a policy.” *Pioneer Indus.*, 639 F.3d at 467. However, the Eighth Circuit noted that “Minn. Stat. § 60A.08(9) does not contain a ‘but for’ requirement[.]” *Id.* at 468. It held that “if [Defendant–Insurer] can prove a misrepresentation increased its risk of loss, it is entitled to avoid the policy irrespective of whether or not it would have issued the policy[.]” because “[a]n increase in the risk of loss is all that is required in order to trigger application of Minn. Stat. § 60A.08(9)[.]” *Id.* “[A]n insurer is not required to further prove that it would never have issued the policy but for the misrepresentations.” *Id.* Under the Eighth Circuit's analysis, therefore, Alterra does not have to prove that “it would never have issued the policy but for the misrepresentations.” *See id.* Alterra only has to prove that the misrepresented facts increased its risk of loss. *See id.*

Taking its lead from the Eighth Circuit, the Court concludes that the Outstanding Discovery is not relevant to the claims or defenses in this case. “[A]n insurer is not required to ... prove that it would never have issued the policy but for the misrepresentations.” *Id.* Thus, whether Alterra rejected or accepted other insurance applications is not relevant to any claims or defenses in this action.

The Court further notes that responding to the Outstanding Discovery would be extremely burdensome. For example, answering Interrogatory No. 16 would require Alterra to

review *every* application that it has received for insurance in the past seven-and-a-half years in order to provide a list of applications denied. (*See* Pl.'s Mem. in Supp. at 7.) Similarly, responding to Document Request Nos. 23 and 24 would require Alterra to search for and produce every title agent insurance application that it has received in the past seven-and-a-half years. (*Id.* at 9.) Full compliance with Document Request No. 22 would require, in part, that Alterra search the emails and documents of all of its claims adjusters, their superiors, and other employees. (*See id.* Ex. G at 6.) Because the documents sought are *at most* tenuously relevant, the Court must consider the notable burden to Alterra of producing the documents.

The Court notes, however, that insofar as the Outstanding Discovery encompasses requests related to Guaranty and not to unrelated third parties, it is relevant. For example, the production of “[a]ll [documents], whether or not they are still in current use, that in any way evidence or relate to [Alterra's] guidelines, policies, rules, instructions, operating procedures or claims manuals[.]” (Pl.'s Mem. in Supp. Ex. G at 6), would be extremely burdensome and many of the documents produced would be irrelevant. The “guidelines, policies, rules, instructions, operating procedures or claims manuals” that Alterra applied and considered in issuing Guaranty insurance or in rejecting its claim, however, are relevant and subject to production. Similarly, other subsets of the Outstanding Discovery that relate directly to Guaranty (and not unrelated parties) must be produced to the extent that Alterra has not already produced them.

In sum, the majority of the Outstanding Discovery is not relevant to the claims or defenses in this action and its production would place a substantial burden upon Alterra. Within the Outstanding Discovery, however, subsets of information that relate directly to Guaranty and Alterra's relationship and dispute, and not to how Alterra treated unrelated third parties, are relevant and must be produced. Therefore, in accordance with the principles established herein, the Court will grant in part and deny in part the motions to compel and strike discovery objections. Because Guaranty's motion to compel has been denied in part, its motion for fees and costs will be denied. *See* Fed. R. Civ. P. 37(a)(5)(A).

III. CONCLUSION

*5 Based on all the files, records and proceedings herein, **IT IS HEREBY ORDERED** that

1. Guaranty's motion to compel (ECF No. 15) is **GRANTED IN PART** and **DENIED IN PART** as described above;
2. Guaranty's motion to strike Alterra's objection to Guaranty's first set of interrogatories and request for production of documents (ECF No. 15) is **GRANTED** with respect to the discovery compelled under this Order and **DENIED** with respect to all other discovery;
3. Guaranty's motion to order Alterra to provide response to Guaranty's first set of interrogatories and requests for production within seven days (ECF No. 15) is **GRANTED** with respect to the discovery compelled under this Order and **DENIED** with respect to all other discovery;

4. Each party shall bear its own costs; and

5. Failure to comply with any provision of this Order or any other prior consistent Order shall subject the non-complying party, non-complying counsel and/or the party such counsel represents to any and all appropriate remedies, sanctions and the like, including without limitation: assessment of costs, fines and attorneys' fees and disbursements; waiver of rights to object; exclusion or limitation of witnesses, testimony, exhibits and other evidence; striking of pleadings; complete or partial dismissal with prejudice; entry of whole or partial default judgment; and/or any other relief that this Court may from time to time deem appropriate.

All Citations

Not Reported in Fed. Supp., 2014 WL 12601039

Footnotes

- 1 Guaranty initially also requested an Order to amend the discovery schedule to allow it, and only it, more time to conduct discovery. (Pl.'s Mem. in Supp. at 18, ECF No. 18.) On October 9, 2014, the parties filed a Stipulation to Amend the Pretrial Scheduling Order (ECF No. 29) that resolved the parties' scheduling disagreements, and consequently that motion is no longer before the Court.
- 2 Guaranty originally pointed to three different defenses as being known-loss defenses (Pl.'s Mem. in Supp. at 15). However, two of the defenses are based purely on the contract terms and Guaranty appears to acknowledge now that only one defense raised could potentially constitute a known-loss defense. (See Letter from Jeffrey R. Mulder to Magistrate Judge Tony N. Leung (Sept. 29, 2014) at 4.)

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UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Kenneth Seifert d/b/a The Hair Place and
Harmar Barbers, Inc., individually and on
behalf of all others similarly situated,

Civil File No: 20-cv-01102 JRT/DTS

Plaintiffs,

v.

IMT Insurance Company,

Defendant.

**EXHIBIT I TO DEFENDANT'S
MOTION TO DISMISS**

2010 WL 5154378

Only the Westlaw citation is currently available.

NOTICE: THIS OPINION IS DESIGNATED AS UNPUBLISHED AND MAY NOT BE CITED EXCEPT AS PROVIDED BY MINN. ST. SEC. 480A.08(3).

Court of Appeals of Minnesota.

SAND COMPANIES, INC., Respondent,

v.

GORHAM HOUSING PARTNERS

III, LLP, et al., Defendants,

International Insurance Company

of Hannover, Ltd., Appellant,

Cincinnati Insurance Companies, Respondent.

No. A10-113.

|

Dec. 21, 2010.

Attorneys and Law Firms

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Sharon L. Van Dyck, Van Dyck Law Firm, PLLC, St. Louis Park, MN, and Gregory J. Johnson, GJohnson Law PLLC, Apple Valley, MN, for appellant.

Sean J. Mickelson, Terhaar, Archibald, Pfefferle & Griebel, LLP, Minneapolis, MN, for respondent Cincinnati Insurance Companies.

Considered and decided by MINGE, Presiding Judge; TOUSSAINT, Judge; and ROSS, Judge.

UNPUBLISHED OPINION

ROSS, Judge.

***1** This insurance coverage appeal arises from judgments in a successful declaratory judgment action brought by Sand Companies, Inc. (SCI) to establish that one or both of its two insurers were required to indemnify it for costs it incurred while retrofitting a faulty garage sprinkler system. Because we hold that the district court erred by failing to distinguish between the known-injury-or-damage provision

in International Insurance Company of Hannover, Ltd.'s policy and the known-loss doctrine, we reverse and remand in part. We affirm the district court judgments on all other issues. On remand, the district court should determine which insurer must indemnify SCI depending on whether Hannover's known-injury-or-damage provision precludes coverage.

FACTS

Gorham Housing Partners hired SCI in 2001 to be the general contractor for its Heritage Park Estates apartment project. SCI subcontracted with Superior Fire to install the apartment's garage sprinkler system. The subcontract required Superior Fire to obtain various kinds of insurance, including general-aggregate and products-completed insurance and to name SCI as an "additional insured" under the policy. At the time it signed the subcontract, Superior Fire was insured by United National under a Commercial General Liability (CGL) insurance policy. But a year later, its United National policy expired and it obtained a replacement CGL policy issued by Hannover. This policy lasted for less than a year, and in August of 2003 it was cancelled for non-payment of premium. That summer, Superior Fire completed its work on the sprinkler system, and by fall, Heritage Park Estates was substantially complete.

Winter brought pipe breaks. On December 13, 2003, a garage sprinkler pipe froze and burst. The pipe was repaired. On December 18, Ted Lindberg of SCI sent a letter to Greg Schell of Superior Fire expressing his concern that cold weather would lead to more breaks and asking Superior Fire to participate in any repair costs. On January 6, 2004, Hannover issued a new CGL policy to Superior Fire. Two weeks later, on January 20, sprinkler pipes located in the first floor atrium broke, but did not cause other damage. The pipes were repaired. Two days later an elbow pipe located in a third-floor apartment broke, damaging the apartment. In February, a fire protection specialist issued SCI a report listing areas of concern and concluding that "modifications to the design and installation of the sprinkler systems are necessary to bring this installation to minimum code compliance." The following spring, SCI performed and financed a retrofit of the sprinkler system.

Autumn brought litigation. Gorham sued SCI and Superior Fire seeking recovery for out-of-pocket expenses and consequential damages resulting from defective design, construction, and installation of the sprinkler system. In April

2008, a jury made findings on, among other things, liability for the breaks and costs of the repairs. Posttrial motions were argued and pending when SCI commenced a declaratory judgment action, out of which this appeal arose. SCI asked the district court to declare whether Hannover, or its own insurer, Cincinnati, had a duty to indemnify it for expenses from its retrofitting the sprinkler system. All parties in the declaratory judgment action moved for summary judgment. In the meantime, the district court ruled on Gorham's pending motion for judgment as a matter of law in its lawsuit against SCI. It issued an order for judgment finding Superior 100% negligent for the pipe breaks of December 2003 and January 2004 but not for additional pipe breaks on December 2004 or January 2005.

*2 The district court later ruled on the cross-motions for summary judgment in SCI's declaratory judgment action. It granted summary judgment in favor of SCI and denied summary judgment for Hannover and Cincinnati.

The district court held that SCI is entitled to indemnification for its costs by at least one of its insurers. Specifically, it held as follows:

- SCI was obligated by its contract with Gorham to repair the sprinkler system.
- SCI was an “additional insured” under Hannover's policy.
- Hannover's policy was in effect at the time of some of the occurrences.
- SCI was also insured under Cincinnati's policy.
- SCI's repairs and retrofits are damages because of “property damage” as defined in both Hannover and Cincinnati's policies.
- The pipe breaks were “occurrences” as defined in both the Hannover and Cincinnati policies.
- Exclusions (l), (m), and (n) do not bar coverage under either policy.
- Cincinnati's policy was secondary to Hannover's, which was primary.

The district court also concluded that fact issues remained regarding whether the known-loss doctrine would exclude coverage and whether SCI obtained the necessary consent from Hannover to do the retrofit work.

The district court entered its findings of fact, conclusions of law, and order for judgment in the Gorham-SCI-Superior Fire trial. In relevant part, the court found that Superior Fire was responsible for the December 2003 pipe break, that no party was responsible for the December 2004 and January 2005 pipe breaks, and that Gorham was responsible for the January 22, 2004, pipe break. It also held that \$314,629.17 would compensate SCI for the reasonable cost of repair work of the garages.

The district court then held a trial on remaining fact issues in SCI's declaratory judgment action. Three witnesses testified: Greg Miller, president of Superior Fire, Leo Sand, chairman of SCI, and Ted Lindberg, SCI's project manager for the Heritage Park project. On November 19, 2009, the district court determined that the known-loss doctrine did not bar coverage under Hannover's policy and that the consent provisions in Hannover's policy also did not bar coverage.

Hannover and Cincinnati both appeal from summary judgment and the posttrial judgment in the declaratory judgment action.

DECISION

Hannover and Cincinnati both appeal from the summary judgment order and the final judgment. Generally, any challenge to the denial of a summary judgment motion based on the existence of factual issues becomes moot once the jury reaches a verdict on that factual issue. *Bahr v. Boise Cascade Corp.*, 766 N.W.2d 910, 918 (Minn.2009). But we have recently clarified that when the denial of summary judgment is based on a question of law, the denial can be reviewed in an appeal from the judgment. *Schmitz v. Rinke*, 783 N.W.2d 733, 744 (Minn.App.2010), *review denied* (Minn. Sept. 21, 2010).

We apply the following standard of review to all of the issues raised in this appeal. With respect to the legal issues resolved at summary judgment, we review de novo “whether there are any genuine issues of material fact and whether the district court erred in applying the law.” *Wanzek Constr., Inc. v. Employers Ins. of Wausau*, 679 N.W.2d 322, 324 (Minn.2004). With respect to our review of the declaratory judgment, we apply a clearly erroneous standard as to factual findings and review the district court's legal conclusions de novo. *Onvoy, Inc. v. ALLETE, inc.*, 736 N.W. 2d 611, 615 (Minn.2007). We review de novo the interpretation of particular provisions of the insurance policies and their

application to the facts. *Franklin v. W. Nat'l Mut. Ins. Co.*, 574 N.W.2d 405, 406 (Minn.1998). And in doing so, “words are to be given their natural and ordinary meaning and any ambiguity regarding coverage is construed in favor of the insured.” *Am. Family Ins. Co. v. Walser*, 628 N.W.2d 605, 609 (Minn.2001).

I

*3 We first address whether SCI is an additional insured under Superior Fire's insurance policy with Hannover. The “additional insured” provision in the contract between Hannover and Superior Fire provides that the policy “is amended to include as an insured any person or organization ... to whom [Superior Fire is] obligated by valid written contract to provide such coverage.”

Hannover claims that it is required to insure SCI only while Superior Fire's work was in progress but not after it was completed. It rests its argument on *Seward Housing*, in which the supreme court held that the insurer of a subcontractor was required to include the contractor as an additional insured only while the subcontractor's work was in progress. *Seward Housing Corp. v. Conroy Bros. Co.*, 573 N.W.2d 364 (Minn.1998). But *Seward* is not on point. The subcontractor there was required to purchase only general liability insurance, not completed-operations coverage. *Id.* at 367. Here, Superior Fire was obligated by contract to provide insurance for SCI after the work was completed. Paragraph seven of its subcontract with SCI specifically required Superior Fire to obtain both general liability insurance and completed-operations insurance. Based on the plain meaning of these two relevant contract provisions, we hold that SCI was an additional insured under Superior Fire's policy with Hannover.

II

We next address whether SCI's costs to retrofit the sprinkler system are covered under the insurance policies. Both Hannover and Cincinnati claim that the retrofit does not address “damages” that were the result of an “occurrence” covered under their respective policies. We first address Hannover's arguments.

Hannover's policy states that the insurance “applies to ... ‘property damage’ only if: (1) the ... ‘property damage’ is

caused by an ‘occurrence’ that takes place in the ‘coverage territory’; and (2) the ... ‘property damage’ occurs during the policy period. Hannover claims that all damages stemmed from either the December 13, 2003, pipe break or the faulty pipe design, both of which occurred before the inception of its policy, and it maintains that the January pipe breaks were not occurrences.

We first address whether the January pipe breaks were occurrences. The policy defines “occurrence” as “an accident, including continuous or repeated exposure to substantially the same general harmful conditions.” “Accident” is not defined in the policy, but has been held to mean “an unexpected, unforeseen, or undesigned happening or consequence from either a known or unknown cause.” *Hauenstein v. St. Paul-Mercury Indem. Co.*, 242 Minn. 354, 358-59, 65 N.W.2d 122, 126 (1954).

The district court found that “based on the testimony of all three witnesses, none of the parties knew until after the January 2004 pipe breaks that the pipe bursts would continue to occur until repaired.” Based on this finding, we hold that the January pipe breaks were accidents, and therefore, occurrences; they were unexpected, unforeseen, and undesigned happenings or consequences from another cause.

*4 We next address whether Hannover's policy covers damages stemming from multiple occurrences, at least one of which occurred before the start of the policy. Minnesota law follows the “actual injury rule” such that a “liability policy is ‘triggered’ if the complaining party ... is actually damaged during the policy period, regardless of when the underlying negligent act occurred” and that “an insurer is on the risk ... if, during the period of one of its policies, there is property damage.” *Wooddale Builders v. Maryland Cas. Co.*, 722 N.W.2d 283, 292 (Minn.2006). And “[t]his is true even though an excluded cause may have also contributed to the loss.” *Henning Nelson Constr. Co. v. Fireman's Fund Am. Life Ins. Co.*, 383 N.W.2d 645, 653 (Minn.1986). The supreme court has concluded that “there is no reason for the insured's coverage, or the insurers' obligations, to be diminished simply because the damages arise from a series of events rather than a single discrete occurrence.” *Wooddale*, 722 N.W.2d at 296.

It is undisputed that the pipes broke several times and that some of the breaks occurred in January, while Hannover's policy was in effect. It is also undisputed that at least one of the January pipe breaks damaged the building. Following

Wooddale, as long as one or more occurrences leading to the retrofit occurred during Hannover's policy period, Hannover is liable.

We turn to Cincinnati's arguments. Cincinnati argues that the retrofit does not address "property damage" that was the result of an "occurrence" under its policy, but for different reasons. First, it claims that it is not required to indemnify SCI for the cost to retrofit the sprinkler system because the faulty system is not "property damage." Second, it argues that at the time the retrofit was made, there was no "occurrence" because the pipes that had broken were already fixed.

With regard to Cincinnati's first argument, the supreme court has defined "damages because of property damage" to include "damages which are causally related to an item of 'property damage.'" *Federated Mut. Ins. Co. v. Concrete Units, Inc.*, 363 N.W.2d 751, 757 (Minn.1985). And Cincinnati's policy defines property damage in part, as "[p]hysical injury to tangible property." There is no dispute that the pipe breaks caused physical injury to tangible property. They damaged the building and the pipes themselves. The breaks therefore constitute property damage. And the district court found that the retrofit was "causally related" to the damage from the pipe breaks. We are not convinced by Cincinnati's contention made during its oral argument that "the costs to retrofit the system are related to the fact that it was defectively designed and installed in the first instance" and not related to the pipe breaks, because the causal connection between the pipe burst and the retrofit was a factual finding, and we will not disturb factual findings absent clear error. *Onvoy, Inc.*, 736 N.W.2d at 615. We hold that the damages, which the district court held were causally related to an item of property damage, are "damages because of property damages" under Cincinnati's policy.

*5 The supreme court's holding in *Federated Mutual* is instructive. The supreme court there held that the damages caused by defective concrete were property damage. 363 N.W.2d at 756-57. The court did not directly discuss the issue of whether the damaged concrete itself was "property damage," but because it held that an exclusion for property damage excluded coverage of the costs of the concrete, the court must have assumed the concrete was property damage. *Id.* at 755-57 (citing to exclusion (n), which excludes "property damage to the named insured's products" (emphasis added)).

Cincinnati's reliance on *Thermex v. Fireman's Fund Ins. Cos.*, 393 N.W.2d 15 (Minn.App.1986) is misplaced. In *Thermex*, we stated that "replacement costs related to defective work and materials, does not fit within the policy definition of property damage." 393 N.W.2d at 17. But we specifically noted that the complaint "does not allege that Thermex's faulty workmanship caused any physical damage to the building," *id.*, and that therefore, "this case is distinguishable from cases in which an insurer was held obligated to defend its insured for faulty workmanship which caused physical damage." *Id.* *Thermex* does not control because here, there is no allegation that the sprinkler system was a result of defective work or materials; it was a design defect and accident, and the sprinklers in this case did cause physical damage to the property when the pipes broke. This case fits squarely within the line of cases from which *Thermex* was distinguished.

We now turn to Cincinnati's other argument-that the damages were not the result of an "occurrence" because the sprinkler system was restored to operation. Cincinnati relies on *Bright Wood Corp. v. Bankers Standard Ins. Co.*, 665 N.W.2d 544, 549 (Minn.App.2003), *review denied* (Minn. Sept. 24, 2003), for the proposition that damage "because of repairs deliberately undertaken" is not an occurrence. Contrary to Cincinnati's characterization, the *Bright Wood* court never held that there was no occurrence. The damages at issue in *Bright Wood* were the costs of replacing a particular component in its windows that was not up to specifications. *Id.* at 548. The installation of a faulty window component was an occurrence, which necessitated its replacement. *Id.* The court denied coverage not because there was no occurrence but because of an exclusion. *Id.* Cincinnati misreads the *Bright Wood* court's statement that "[t]he resulting damage is not an accidental occurrence." *Id.* at 549. This statement refers to the "incidental damage to the finish, hardware, and weather-stripping" that was incurred when replacing the portion of the window that was defective. *Id.* at 548. The incidental damage to other parts of the window (that were damaged only because of the window replacement-the cost of which was excluded by the "your work exclusion") was not covered because the replacement was not an occurrence. *Id.* at 549.

*6 *Bright Wood* adds only that incidental damages caused by the retrofit here would not qualify as damages arising out of an occurrence because the retrofit is not an occurrence. But all costs related to the retrofit arise out of the separate occurrence of the pipe break. It is therefore unnecessary to decide whether

the retrofit itself is an occurrence. Cincinnati offers no other reason to disregard the district court's finding that the pipe bursts were "occurrences" as defined by the policy.

III

We turn to whether the CGL policies require the insurers to indemnify SCI without a judicial finding of liability. Hannover and Cincinnati claim that SCI was never legally obligated to pay for the retrofit because the trial court did not find Superior Fire or SCI at fault for the January 2004 pipe breaks. Hannover offers no caselaw to support its position. Cincinnati relies on *St. Paul Fire and Marine Ins. Co. v. A.P.I., Inc.*, 738 N.W.2d 401, 409 (Minn.App.2007), *review denied* (Minn. Dec. 11, 2007), for the broad proposition that "[a] duty to indemnify arises when the insured is legally obligated to pay damages as a result of a judgment or settlement." But *St. Paul Fire* is a statute-of-limitations case. *Id.* We merely held that the statute of limitations begins when the judgment is entered. *Id.* We did not declare that a judicial finding of liability is required to trigger the CGL policy.

The district court held that the contract between SCI and Gorham created a legal obligation to pay because the contract stated, "the Contractor shall be responsible to the Owner for acts and omissions of the Contractor's ... subcontractors and their agents and employees." The district court's holding is supported by the plain language of the insurance policy, which merely states the term, "legal obligation." *See Am. Family Ins. Co.*, 628 N.W.2d at 609 ("When interpreting an insurance contract, words are to be given their natural and ordinary meaning and any ambiguity regarding coverage is construed in favor of the insured."); *cf. Waznek*, 679 N.W.2d at 324 (stating that Waznek was "forced" by its contract with the city to replace stones for a swimming pool after its subcontractor filed for bankruptcy).

IV

Because we have concluded that the costs to retrofit the sprinkler system are covered under both policies, we now address whether any of the exclusions in Hannover's policy are applicable. Hannover claims that the so-called "business-risk" exclusions, which are exclusions (l), (m), and (n), bar coverage. It also urges us to read these exclusions such that "your work" refers to Superior Fire's work. We agree with this

interpretation because "your" is defined in the contract as the named insured, and Superior Fire is the named insured.

Taken together, these exclusions purportedly prevent coverage for property damage to, arising out of a defect in, or costs to repair or replace any of Superior Fire's work. But because an overriding, coverage-granting, additional-insured endorsement that specifically provides for coverage for SCI "with respect to liability for ... 'property damage' arising solely out of [Superior Fire's work]" also applies, and this coverage-granting provision explicitly "modifies" the insurance provided, we hold that the business-risk exclusions do not apply.

*7 We therefore do not discuss the other bases on which we might reach the same conclusion.

V

We next address whether the district court erred by interpreting Hannover's known-injury-or-damage provision under the known-loss doctrine. In relevant part, the known-injury-or-damage provision states that the "insurance applies to ... 'property damage' only if ... [p]rior to the policy period, no insured ... knew that ... 'property damage' had occurred, in whole or in part." Hannover claims that the parties were aware of the damage after the first pipe burst and that, therefore, this exclusion precludes coverage.

In its order denying summary judgment, the district court held that whether the parties knew the pipe bursts would continue until repaired was a material fact issue. At trial, the district court considered the December 18 letter sent from SCI to Superior Fire advising that future cold weather will bring additional line breaks and water damage, and it received the conflicting testimony of three witnesses. It found that "based on the testimony of [the] witnesses, none of the parties knew until after the January 2004 pipe breaks that the pipe bursts would continue to occur until repaired. Therefore, *the known loss doctrine* does not apply to bar Hannover's coverage." (Emphasis added.)

We hold that the district court erred by construing the known-injury-or-damage provision as if it were incorporating the known-loss doctrine. The known-loss doctrine is a common law concept based on the idea that insurance cannot be issued for a loss in which there is no longer any risk. *Waseca Mut. Ins. Co. v. Noska*, 331 N.W.2d 917, 924-25 n. 6 (Minn.1983).

The supreme court has said that “where the loss has occurred prior to the application for insurance, the relevant question is ... whether the parties, particularly the insured, knew of the loss at the time of application, since the knowledge would be nearly conclusive evidence as to bad faith.” *Id.* It is therefore a fraud-based defense. *Domtar, Inc. v. Niagra Fire Ins. Co.*, 563 N.W.2d 724, 737 (Minn.1997). But the issue in this case was not whether a fraud prevents coverage; it was whether a particular provision in the contract barred coverage.

Our holding is consistent with *Wooddale*, where the supreme court, in trying to determine which insurers were liable, interpreted the plain language of some of the insurers' policies and determined that “the terms of the policies at issue prevent an insurer from becoming liable for damages to a home during the insurer's policy period, if the property damage was ‘expected’ from Wooddale's standpoint before the policy period began.” 722 N.W.2d at 292. The court then discussed how its determination is “supported by the rationale behind the known loss doctrine.” *Id.* But although it was “supported” by the rationale behind the known-loss doctrine, the court did not construe the provision in accordance to the known-loss doctrine. *Id.* It construed it according to its own terms. *Id.*

*8 Our holding is also consistent with a recent Southern District of New York decision construing an identical known-injury-or-damage provision, *Travelers Cas. & Surety Co. v. Dormitory Auth.-State of New York*, ---F.Supp.2d ---, 2010 WL 3001729 (S.D.N.Y.2010). In *Travelers*, the court stated:

[T]he known-loss doctrine is a ‘common law concept’ that courts read into insurance policies in order to prevent an insured from recovering for loss or damage that the insured already knew about at the time it procured insurance. The doctrine reflects, in essence, a public policy judgment that a party should not be able to purchase insurance to cover losses that one has already incurred. The known-loss doctrine applies in the *absence* of a known-injury-or-damage provision in the contract itself.

Id. at *10. We find *Travelers* to be persuasive. Because the district court did not determine whether the known-injury-or-damage provision, as written, bars coverage, we remand that issue to the district court.

Affirmed in part, reversed in part, and remanded.

All Citations

Not Reported in N.W.2d, 2010 WL 5154378

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Kenneth Seifert d/b/a The Hair Place and
Harmar Barbers, Inc., individually and on
behalf of all others similarly situated,

Civil File No: 20-cv-01102 JRT/DTS

Plaintiffs,

v.

IMT Insurance Company,

Defendant.

**EXHIBIT J TO DEFENDANT'S
MOTION TO DISMISS**



KeyCite Yellow Flag - Negative Treatment

Disagreed With by Lead GHR Enterprises, Inc. v. American States Insurance Company, D.S.D., February 25, 2019

2013 WL 5487444

Only the Westlaw citation is currently available.
United States District Court, D. Minnesota.

KEN JOHNSON PROPERTIES, LLC, Plaintiff,

v.

HARLEYSVILLE WORCESTER
INSURANCE COMPANY, Defendant.

Civil No. 12–1582 (JRT/FLN).

Sept. 30, 2013.

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MEMORANDUM OPINION AND ORDER ON CROSS MOTIONS FOR SUMMARY JUDGMENT

JOHN R. TUNHEIM, District Judge.

*1 This is an insurance coverage dispute arising out of damage to an apartment building in Saint Paul, Minnesota, owned by Plaintiff Ken Johnson Properties, LLC (“Johnson Properties”). Extensive rain fell on the apartment building in May 2011. Due to a clogged roof drain the rain was not properly diverted from the roof. Consequently, water pooled and caused damage to the building’s roof and interior ceilings rendering at least one apartment unit uninhabitable. Johnson Properties sought coverage for the damage under a property insurance policy issued by Harleysville Worcester Insurance Company (“Harleysville”). Harleysville provided coverage pursuant to an endorsement that caps coverage for damage resulting from water backing up through or overflowing from a drain at \$25,000. Harleysville determined that the damage was not covered under an additional insurance provision providing full coverage for building collapse due to the weight of rain that collects on a roof.

Johnson Properties filed the present action alleging that Harleysville breached the insurance policy when it limited coverage to \$25,000. The parties bring cross motions for summary judgment with respect to the breach of contract claim. Harleysville also moves for summary judgment on Johnson Properties’ claims for waiver/equitable estoppel and a declaratory judgment regarding appraisal. Because the Policy provides coverage for damage caused by collapse due to the weight of rain pooling on a roof, even when the endorsement coverage is triggered, the Court will grant Johnson Properties’ motion for summary judgment with respect to its breach of contract claim. Additionally, because no material issue of fact remains regarding Johnson Properties’ claims for waiver, estoppel, or declaratory judgment, the Court will grant Harleysville’s motion with respect to these claims.

BACKGROUND

Johnson Properties owns a multi-unit apartment building (“the Building”) located at 1985 Grand Avenue, Saint Paul, Minnesota. (Second Decl. of Andrew D. Deutsch, Ex. 1 (Dep. of Kenneth D. Johnson (“Johnson Dep.”) 6:16–23), Feb. 1, 2013, Docket No. 31.) Ken Johnson (“Johnson”) is the sole owner of Johnson Properties, and manages the Building. (Johnson Dep. 6:22–7:5, 8:7–13.)

I. THE HARLEYSVILLE INSURANCE POLICY

Johnson Properties obtained a Business Owners’ insurance policy (the “Policy”) from Harleysville effective from August 1, 2011, through August 1, 2012. (Aff. of Alexander M. Jadin, Ex. A at 10, Dec. 26, 2012, Docket No. 19.) The Building and the premises located at 1985 Grand Avenue, Saint Paul, Minnesota, are covered property under the Policy. (*Id.*, Ex. A at 14–16.)

The property coverage section of the Policy provides: “We will pay for direct physical loss of or damage to Covered Property at the premises described in the Declarations caused by or resulting from any Covered Cause of Loss.” (*Id.*, Ex. A at 51.) The Policy defines a covered cause of loss as “[r]isks of direct physical loss,” unless the loss is specifically excluded in Paragraph B of the Policy’s exclusions section, or limited in Paragraph 4 of the Policy’s limitations section. (*Id.*, Ex. A at 52.)

A. Coverage for Water Damage

*2 Paragraph B of the Policy excludes coverage for certain water-related damages, stating, in relevant part, that Harleysville:

will not pay for loss or damage caused directly or indirectly by any of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss. These exclusions apply whether or not the loss event results in widespread damage or affects a substantial area.

....

g. Water

....

(3) Water that backs up or overflows from a sewer, drain or sump[.]

(*Id.*, Ex. A at 65–66.) A “Water Back–Up and Sump Overflow Endorsement” (the “Water Endorsement”) brings certain water damage back within the scope of the Policy’s coverage. (*Id.*, Ex. A at 36.) The Water Endorsement provides:

A. We will pay for direct physical loss or damage to Covered Property, covered under Section I—Property, caused by or resulting from:

1. Water or waterborne material which backs up through or overflows or is otherwise discharged from a sewer or drain; or
2. Water or waterborne material which overflows or is otherwise discharged from a sump, sump pump or related equipment even if the overflow or discharge results from mechanical breakdown of a sump pump or its related equipment.

....

C. The most we will pay per location for the coverage provided under this endorsement is \$25,000 unless a higher Water Back–Up and Sump Overflow Limit of Insurance is shown in the Declarations as applicable to a specified premises and then such limit applies to the premises so designated.

The coverage provided by the Water Back–Up and Sump Overflow endorsement is subject to the Limits of Insurance of Section I—Property and as such will not increase the Limits of Insurance provided in this policy.

(*Id.*, Ex. A at 36.) The Water Endorsement explicitly deletes the exclusion in Paragraph B of the Policy for “Water that backs up or overflows from a sewer, drain or sump.” (*Id.*, Ex. A at 36, 65–66.)

B. Coverage for Collapse

The Policy also excludes coverage for “loss or damage caused by or resulting from ... [c]ollapse, except as provided in the Additional Coverage for Collapse.” (*Id.*, Ex. A at 67–68.) The Policy does, however, provide coverage “if collapse results in a Covered Cause of Loss,” and Harleysville “will pay for the loss or damage caused by that Covered Cause of Loss.” (*Id.*, Ex. A at 68 .) The Policy’s additional coverages section includes coverage for building collapse. (*Id.*, Ex. A at 53–54.) Specifically, the Policy provides that Harleysville

will pay for direct physical loss or damage to Covered Property, caused by collapse of a building or any part of a building that is insured under this policy or that contains Covered Property insured under this policy, if the collapse is caused by one or more of the following:

....

(e) Weight of rain that collects on a roof[.]

*3 (*Id.*, Ex. A at 54–55.) The Policy defines collapse as:

(1) With respect to buildings:

- (a) Collapse means an abrupt falling down or caving in of a building or any part of a building with the result that the building or part of the building cannot be occupied for its intended purpose;
- (b) A building or any part of a building that is in danger of falling down or caving in is not considered to be in a state of collapse;
- (c) A part of a building that is standing is not considered to be in a state of collapse even if it has separated from another part of the building; and
- (d) A building that is standing or any part of a building that is standing is not considered to be in a state of collapse even if it shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.

(*Id.*, Ex. A at 54.)

C. Appraisal

The Policy also contains an appraisal provision under the “Property Loss Conditions” section. Under the provision, if Harleysville and Johnson Properties “disagree on the amount of loss” either party “may make written demand for an appraisal of the loss.” (*Id.*, Ex. A at 70.)

In this event, each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding.

(*Id.*) Pursuant to the appraisal provision, both parties agree to pay its own appraiser's costs, and bear the other expenses of the appraisal and umpire equally. (*Id.*) Finally, Harleysville retains its right to deny the claim, even if an appraisal is conducted. (*Id.*)

II. MAY 2012 RAIN EVENT

On May 10 and 11, 2012, approximately 2.8 inches of rain fell on the Building. (Jadin Aff., Ex. G at 1.) On May 11, Johnson learned that water was leaking into one of the Building's apartments. (Johnson Dep. 16:5–12, 17:2–15.) After observing the leak from the apartment's interior, Johnson inspected the roof above the apartment. (*Id.* 18:18–22; Jadin Aff., Ex. G at 1.) On the roof, Johnson discovered a large pool of standing water on the southern portion of the roof around one of the Building's two roof drains. (Johnson Dep. 19:2–20:2.) Johnson testified that he had never had problems with the roof drain clogging prior to May 11. (*Id.* 23:12–15.)

Johnson called his roofer, who arrived at the building and began pumping water off of the roof. (*Id.* 20:10–21.) Later, the Saint Paul Fire Department arrived and assisted in the efforts to remove the water. (*Id.* 21:4–20.) Johnson's roofer was then able to snake the roof drain, dislodging an obstruction approximately six to seven feet inside the drain. (*Id.* 21:20–24; Jadin Aff., Ex. G at 1.) Johnson believes that the roof

was clogged by “helicopter” or maple tree seeds. (Johnson Dep. 22:17–23:11.) The Fire Department noted in its incident report that “standing water on the roof for an undetermined amount of time caused it to leak into apartments below, then causing ceiling collapse in several apartments.” (Jadin Aff., Ex. D at 3.) The Fire Department referred the Building's problems to the Fire Marshal citing “a concern that the roof may collapse.” (*Id.*)

III. INSURANCE CLAIM

*4 On or about May 11, 2012, Johnson Properties notified Harleysville of the damage to the Building.¹ Harleysville contacted independent adjuster Alex Uhler to investigate the loss. Uhler took photographs of the damage to the Building on May 14, 2012. (Second Deutsch Decl., Ex. 2.) The photographs show that internal ceilings were cracked, and at least one ceiling had a hole in it. (*Id.*, Ex. 2 at 6.) The photographs also reveal that the roof was sagging and roof joists had been broken. (*Id.*, Ex. 2 at 1–2, 10.)

A. The City's Inspection

On May 21, 2012, the City of Saint Paul Department of Safety and Inspections inspected the Building and found a number of deficiencies. (Jadin Aff., Ex. E.) The inspection report required Johnson to “[r]epair damaged structural support members in an approved manner in area of sagging roof section.” (*Id.*, Ex. E at 2.) The inspection report also condemned Unit 202 as “unfit for human habitation.” (*Id.*) With respect to Unit 202, the report indicated that “[t]his unit is condemned due to damaged and falling ceiling plaster and due to damage to roof above this unit. This unit must be vacated by May 23, 2012 at 10:00 am and may not be re-occupied until inspected and approved.” (*Id.*) The report also directed Johnson to repair all water damaged areas of the trim, woodwork, and walls throughout Unit 202. (*Id.*) The City of Saint Paul apparently condemned a second unit in the Building on May 24. (Johnson Dep. 30:10–23.)

B. Harleysville's Engineer Report

Harleysville retained Encompass, Inc., an engineering consulting and forensic analysis firm, to inspect the Building. (Jadin Aff., Ex. G.) Encompass documented its findings in a May 24, 2012 report. (*Id.*) Encompass found that a 40 by 20 foot area of the roof “has sagged” and was sitting 10.5 inches lower than the adjacent roof drain. (*Id.*, Ex. G at 2.) The report also noted that “roof joists at the area of the roof sag were broken and splintered.” (*Id.*) The report explained

that the broken roof joists caused the roof sag, and that the joists had fractured because they were overloaded. (*Id.*) The report found that “[t]he load caused by the reported extent of ponding area would create [a] load capable of overloading the roof.” (*Id.*) As for the roof’s drains, the report found that “it is apparent that the south roof drain was not functioning” and that “a clog must have been present in the south drain pipe.” (*Id.*) Finally, the report concluded that “[w]ater entered the building through the roof after the roof structure failed. The roof structure failed due to the inability of the south roof drain to remove the rainwater from the roof, likely as a result of the clog.” (*Id.*, Ex. G at 3.)

C. Coverage Determination

In a May 29, 2012 letter Harleysville notified Johnson Properties that it would provide coverage for the damage to the Building pursuant to the Water Endorsement. (Jadin Aff., Ex. B.) Harleysville stated in the letter that “it appears that a clogged drain on the roof of the building caused ponding of water on the roof. The ponding of the water caused the roof to sag. The sagging roof resulted in damage to the roof and water damage inside the building.” (*Id.*, Ex. B at 1.) Therefore, Harleysville agreed “to provide coverage for this loss under the endorsement for Water Back-Up and Sump Overflow.” (*Id.*) Harleysville noted that “[t]he coverage available under the Water Back-Up and Sump Overflow endorsement is limited to a maximum of \$25,000,” and concluded that it would pay only that limit to Johnson because “it appears that no other coverage is available under the policy for this loss.” (*Id.*, Ex. B at 1, 4)

*5 With respect to additional coverage for Collapse, Harleysville explained:

Please be advised that it appears there is no additional coverage available for Collapse. The Exclusion for Collapse states there is no coverage for Collapse unless the additional coverage for Collapse applies. However, the additional coverage for Collapse is only available if there is an abrupt falling down or caving in of the building or part of the building. Because the roof is sagging and has not abruptly fallen down or caved in, there appears to be no

Collapse and therefore no additional coverage for Collapse.

(*Id.*, Ex. B at 4.)

Finally, Harleysville reserved all of its rights under the Policy in the May 29, 2012 letter. Harleysville indicated that its investigation of the loss was ongoing and that the investigation “is being conducted subject to a complete reservation of rights. Neither Harleysville’s investigation nor this letter or any other communication is a waiver of Harleysville’s rights under the policy or the law, whether or not mentioned in this letter. Harleysville reserves all rights available to it.” (*Id.*) Harleysville also indicated that “its coverage position is based on the information available at this time. Harleysville reserves the right to reconsider its coverage position upon receipt of additional information.” (*Id.*) In a June 7, 2012 letter to Johnson Properties’ counsel, Harleysville confirmed its May 29 coverage determination and agreed to pay Johnson Properties \$25,000 for the loss. (*Id.*, Ex. C.)

D. Johnson Properties’ Engineer Report

After Harleysville limited Johnson Properties’ coverage to the \$25,000 payable under the Water Endorsement, Johnson Properties hired Thatcher Engineering, Inc. (“Thatcher”) to provide a structural condition assessment of the damaged portion of the Building. (Jadin Aff., Ex. F.) Thatcher inspected the Building on July 10, 2012, and issued a report on August 1, 2012. (*Id.*, Ex. F at 1–2.) In its report, Thatcher observed “the complete failure and resulting collapse of primary structural roof joist beams over the east and west spans of the southerly half of the roof.... The failed roof joists in the west span have complete horizontal cracks that propagated from the bottom edge of the joists upward into the joists.” (*Id.*, Ex. F at 1.) The report indicated that these failed roof joists were offering “no structural values and are supported by adjacent roof joists through load redistribution.” (*Id.*) The report also observed “that roof joists on the east span had several collapsed joists that dropped down to the ceiling and punched holes in apartment ceilings.” (*Id.*)

IV. JOHNSON PROPERTIES’ COMPLAINT

Johnson Properties commenced this action in state court, and served Harleysville with an amended complaint in June 2012. (Notice of Removal, Ex. B (“Am.Compl.”), June 29, 2012,

Docket No. 1.) Harleysville then removed to federal court based on diversity jurisdiction. (Notice of Removal at 2.)

*6 In its amended complaint, Johnson Properties brings a claim for breach of contract based on the Policy. (Am.Compl. ¶¶ 21–22.) The amended complaint also contains a “waiver and estoppel” claim in Count II. (*Id.* ¶¶ 23–32.) Count II alleges that Harleysville, by paying \$25,000 waived all coverage defenses under the Policy. (*Id.* ¶ 25.) Count II also alleges that Harleysville “misrepresented a material fact, specifically the terms of the Collapse additional coverage under the Policy,” with “the intention to induce the Plaintiff to accept solely the \$25,000 settlement offer as full payment for the Claim.” (*Id.* ¶¶ 27, 29.) Count II goes on to allege that “Plaintiff initially relied upon the misrepresentation of Harleysville to its detriment” and “has been damaged in an amount in excess of \$50,000 as a direct result of Harleysville’s inequitable conduct herein.” (*Id.* ¶¶ 31–32.) Finally, Johnson Properties brings a claim for declaratory judgment demanding appraisal pursuant to the Policy and asking the Court to order the parties to conduct such an appraisal. (*Id.* ¶¶ 33–36.)

ANALYSIS

I. STANDARD OF REVIEW

Summary judgment is appropriate where there are no genuine issues of material fact and the moving party can demonstrate that it is entitled to judgment as a matter of law. Fed.R.Civ.P. 56(a). A fact is material if it might affect the outcome of the suit, and a dispute is genuine if the evidence is such that it could lead a reasonable jury to return a verdict for either party. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A court considering a motion for summary judgment must view the facts in the light most favorable to the non-moving party and give that party the benefit of all reasonable inferences to be drawn from those facts. *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587–88 (1986).

II. BREACH OF CONTRACT

In a breach of contract case, a plaintiff must prove “(1) formation of a contract, (2) performance by plaintiff of any conditions precedent to his right to demand performance by the defendant, and (3) breach of the contract by defendant.” *Park Nicollet Clinic v. Hamann*, 808 N.W.2d 828, 833 (Minn.2011). Here, it is undisputed that a contract was formed. *See Olson v. Rugloski*, 277 N.W.2d 385, 387 (Minn.1979) (“An insurance policy is a contract, the terms of

which determine the rights and obligations of the contracting parties.”). Additionally, the parties do not dispute that Johnson Properties complied with the requisite terms of the Policy by providing Harleysville with notice of its claim. Therefore, to resolve the cross motions for summary judgment, the Court need consider only whether Harleysville breached the contract by failing to comply with its coverage obligations under the Policy.

A. Interpretation of Insurance Policies

In determining whether coverage exists “general principles of contract interpretation apply.” *Lobeck v. State Farm Mut. Auto. Ins. Co.*, 582 N.W.2d 246, 249 (Minn.1998). The goal of insurance policy interpretation is to give effect to the parties’ intent. *Eng’g & Constr. Innovations, Inc. v. L.H. Bolduc Co.*, 825 N.W.2d 695, 704 (Minn.2013). The Court must construe the terms of the policy “according to what a reasonable person in the position of the insured would have understood the words to mean.” *Canadian Universal Ins. Co. v. Fire Watch, Inc.*, 258 N.W.2d 570, 572 (Minn.1977). Unambiguous language must be given its plain and ordinary meaning. *Henning Nelson Constr. Co. v. Fireman’s Fund Am. Life Ins. Co.*, 383 N.W.2d 645, 652 (Minn.1986). A policy is ambiguous if its language “is susceptible to two or more reasonable interpretations,” *Carlson v. Allstate Ins. Co.*, 749 N.W.2d 41, 45 (Minn.2008), and ambiguous language is construed in favor of the insured, *see Bobich v. Oja*, 104 N.W.2d 19, 24 (Minn.1960). Whether an insurance policy is ambiguous is a question of law for the Court. *Columbia Heights Motors, Inc. v. Allstate Ins. Co.*, 275 N.W.2d 32, 34 (Minn.1979).

*7 Additionally, the Court construes an insurance policy as a whole. *Watson v. United Servs. Auto. Ass’n*, 566 N.W.2d 683, 692 (Minn.1997). Provisions must be “given a meaning in accordance with the obvious purpose of the ... contract as a whole.” *Republic Nat’l Life Ins. Co. v. Lorraine Realty Corp.*, 279 N.W.2d 349, 354 (Minn.1979) (citation omitted). The Court will not adopt a “construction of an insurance policy which entirely neutralizes one provision ... if the contract is susceptible of another construction which gives effect to all its provisions and is consistent with the general intent.” *Wyatt v. Wyatt*, 58 N.W.2d 873, 875 (Minn.1953).

B. Burden of Proof

Under Minnesota law the initial burden of establishing a prima facie case of coverage rests with the insured. *SCSC Corp. v. Allied Mut. Ins. Co.*, 536 N.W.2d 305, 311

(Minn.1995), *overruled on other grounds by Bahr v. Boise Cascade Corp.*, 766 N.W.2d 910, 919 (Minn.2009). If the insured establishes coverage, the burden shifts to the insurer to prove that a policy exclusion applies. *Travelers Indem. Co. v. Bloomington Steel & Supply Co.*, 718 N.W.2d 888, 894 (Minn.2006). Policy exclusions are “construed narrowly and strictly against the insurer.” *Id.* It is also the insured's burden to prove that an exception to an exclusion which restores coverage applies. *SCSC Corp.*, 536 N.W.2d at 314.

The Harleysville Policy at issue is an all-risk insurance policy, therefore “coverage will exist unless a cause of loss is mentioned as an excluded cause.” *Sonstegard Foods Co. v. Willington Underwriting, Inc.*, Civ. No. 05–532, 2007 WL 1501278, at *4 (D.Minn. May 21, 2007); *see also Sentinel Mgmt. Co. v. N.H. Ins. Co.*, 563 N.W.2d 296, 299 (Minn.Ct.App.1997). The parties appear to agree that the only potentially relevant portions of the Policy are the coverage provided for water damage under the Water Endorsement and additional coverage for collapse. Because the burden is on the parties to establish coverage and/or an exclusion, the Court need only address the coverage and exclusion provisions of the Policy discussed by the parties. The Court will begin by addressing the two possible sources of coverage—the Water Endorsement and the additional coverage for collapse—in isolation. After the Court has determined whether either or both provisions could provide coverage for the loss to the Building, the Court will examine how the two provisions interact.

C. Coverage for Water Backing Up Through a Drain

Harleysville argues that the Water Endorsement provides coverage for damage to the Building. Johnson Properties argues, however, that the Water Endorsement does not provide coverage because the roof drain at issue is not a “drain” within the meaning of the Water Endorsement because it was not connected to the Building's plumbing system. Johnson Properties also appears to be arguing, in the alternative, that both the Water Endorsement and the additional coverage for collapse provide coverage for the loss in question.²

*8 As an initial matter, the Court finds that the roof drain at issue here constitutes a “drain” within the meaning of the Water Endorsement. A drain is defined as “[a] channel or pipe along which liquid drains away ... a pipe for leading away rainwater.” *Oxford English Dictionary* 755 (6th ed.2007); *see also Webster's Third New International Dictionary* 685

(2002) (defining drain as “an artificial channel by means of which liquid or other matter is drained or carried off”). Here, the roof opening at issue had an open end at the roof's surface connected to a chute which opened onto the ground on the side of the building one story below the roof. This opening and chute served as a channel or pipe to divert rainwater from the roof, and therefore qualifies as a drain. Johnson Properties has not provided, and the Court has not found, any authority supporting a definition of drain that requires the pipe or channel to connect to a plumbing system. Instead, other courts have consistently found roof openings like the one at issue to be drains within the meaning of similar insurance policy provisions. *See, e.g., Scorpio v. Underwriters at Lloyd's, London*, C.A. No. 10–325, 2012 WL 2020168, at *3 (D.R.I. June 5, 2012) (finding a roof downspout to be a drain within the meaning of a policy provision governing “water that backs up or overflows from a drain” (alterations omitted)); *Potoff v. Chubb Indem. Ins. Co.*, 874 N.Y.S.2d 124, 125 (N.Y.App.Div.2009). Accordingly, the Court concludes that the roof opening at issue here is a drain within the meaning of the Water Endorsement.

Although the roof opening is a drain, it is not entirely clear that the Water Endorsement provides coverage for the type of loss at issue here. The Water Endorsement provides that Harleysville “will pay for direct physical loss or damage to Covered Property ... caused by or resulting from ... [w]ater or waterborne material which backs up through or overflows or is otherwise discharged from a sewer or drain.” Courts have interpreted similar provisions in two different ways. Some courts have concluded that such provisions “include both water that comes up out of a sewer, drain, or sump (‘backs up’) and water that spills over from a sewer, drain, or sump (‘overflows’) due to a blockage.” *Cardio Diagnostic Imaging, Inc. v. Farmers Ins. Exch.*, 150 Cal.Rptr.3d 798, 803 (Cal.Ct.App.2012) (construing an insurance policy excluding coverage for “[w]ater that backs up or overflows from a sewer, drain or sump”); *see also Scorpio*, 2012 WL 2020168 at *3 (finding that damage from rain water which accumulated on a roof due to an obstruction in a downspout was excluded from coverage as water “that backs up or overflows from” a drain). Other courts, however, have determined that in order for such a provision to be applicable “the water that caused the damage must have started in a drain and then later exited that drain.” *Drutz v. Scottsdale Ins. Co.*, Civ. No. 10–3499, 2012 WL 665984, at *3 (D.Md. Feb. 28, 2012) (finding an exclusion for water that “backs up or overflows from a sewer, drain, or sump” did not apply where “due to the drain's blockage ... clean water from the supply line was unable to enter the

drain and simply filled the toilet bowl until it eventually overflowed. The water that overflowed the toilet bowl and caused the subsequent damage never made it into the drain and thus could not have ‘backed up or overflowed from a drain.’ ”); see also *Surabian Realty Co. v. NGM Ins. Co.*, 971 N. E.2d 268, 272 (Mass.2012) (construing a backs up or overflows provision “to exclude damage caused by flood waters that spread over the surface of the ground without having entered a drain, but to cover damage caused by water that backed up after entering a drain”).

*9 The Eighth Circuit has not directly addressed the scope of a “backs up or overflows” provision, but it has considered the scope of a “surface water” exclusion in an instructive manner. In *Noran Neurological Clinic, P.A. v. Travelers Indemnity Co.*, 229 F.3d 707 (8th Cir.2000), a clinic suffered damage after excessive rainfall in the area. A possible blockage in an atrium drain prevented diversion of the rain, and water built up in the atrium, causing one of the clinic's windows to break and water to rush into the radiology department. *Id.* at 708. The court found that this set of circumstances did not implicate a provision in the policy for “[w]ater or sewage that backs up or overflows from a sewer, drain or sump,” but was instead governed by a provision excluding damage caused by “surface water.” *Id.* at 709. *Noran Neurological* suggests that the Eighth Circuit would find a backup or overflow provision, such as the one at issue in the Harleysville Policy, inapplicable to water which, due to a blockage, was never able to enter the drain.

If the Court were to interpret the Policy as providing coverage only for damage caused by water that has entered a drain and backed up or been otherwise discharged from the drain, it is certainly possible that the damage at issue may not be covered by the Water Endorsement to the extent it was caused by the weight of rainwater which was never able to enter the roof drain due to the clog. However if the Court were to interpret the Policy as providing coverage for damage caused by water that was merely unable to enter a drain, it is certainly possible that the damage could fall under the Water Endorsement. Ultimately, the Court need not resolve the split in authority regarding potential coverage for the Water Endorsement. Instead, the Court will assume without deciding that Harleysville is correct that the Water Endorsement could provide coverage for the damage at issue because, for the reasons explained below, a finding of coverage under the Water Endorsement does not prevent Johnson Properties from recovering the full extent of the

damage to its property under the Policy's additional coverage for collapse.

D. Coverage for Collapse

The parties dispute whether the Policy could potentially provide coverage for damage to the Building under the additional coverage for collapse. Harleysville argues that because the Building is still standing additional coverage for collapse does not apply. More specifically, Harleysville argues that although the Building's roof is sagging and the interior ceilings are cracked and have holes in them from where roof joists have broken through, the Building has not suffered a collapse because it has not “fallen down” or “caved in.” Johnson Properties argues, on the other hand, that collapsed roof joints and ceilings that have partially fallen in constitute collapse of “any part of a building” within the meaning of the Policy.

The Policy excludes coverage for damage “caused by or resulting from” collapse “except as provided in the Additional Coverage for Collapse.” The additional coverage for collapse provision indicates that Harleysville “will pay for direct physical loss or damage ... caused by collapse of a building or any part of a building ... if the collapse is caused by ... [w]eight of rain that collects on a roof.” The Policy defines collapse as “an abrupt falling down or caving in of a building or any part of a building with the result that the building or part of the building cannot be occupied for its intended purpose.” The Policy also indicates that any part of a building has not collapsed if it remains standing “even if it shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion” or if it is merely “in danger of fall down or caving in.”

*10 The Court begins by considering whether the collapse provision is ambiguous.³ Numerous courts have interpreted similar collapse provisions and have reached differing conclusions regarding whether such provisions are ambiguous. Some courts reviewing substantially similar policy language have concluded that the language is unambiguous. See, e.g., *Residential Mgmt. (N.Y.) Inc. v. Fed. Ins. Co.*, 884 F.Supp.2d 3, 9 (E.D.N.Y.2012) (finding that a policy containing identical language “supplies a clear definition of ‘collapse’ to clarify any potential ambiguity”); *Mount Zion Baptist Church of Marietta v. GuideOne Elite Ins. Co.*, 808 F.Supp.2d 1322, 1325 (N.D.Ga.2011) (finding no ambiguity in a definition of collapse almost identical to that found in the Harleysville Policy, concluding that “[r]egardless

of the many meanings attributed to the word ‘collapse,’ this Court must honor the specific definition of the policy when determining whether this loss is covered”). Courts finding substantially similar collapse provisions unambiguous have determined that a collapse did not occur where a building “had outwardly bowed sidewalls and a sagging roof” and “several of the roof rafters had collapsed and severed” but “the walls and roof ... were standing at the time of inspection.” *Mount Zion Baptist Church of Marietta*, 808 F.Supp.2d at 1322 (internal quotation marks omitted); *see also Mulhern v. Philadelphia Indem. Ins. Co.*, 802 F.Supp.2d 317, 323–24 (D.Mass.2011) (declining to find additional coverage under an identical collapse provision where “the Building’s roof split, leaving a gap of .75 inches” and “cracked open” in areas (internal quotation marks omitted)); *Rector St. Food Enters., Ltd v. Fire & Cas. Ins. Co. of Conn.*, 827 N.Y.S.2d 18, 19 (N.Y.App.Div.2006) (finding that a building that had large cracks in its façade and was sinking, out of plumb, and leaning was undisputedly standing and had therefore not “collapsed” for purpose of the policy’s additional coverage provision).

Other courts, however, have determined that even collapse provisions that provide a definition of the term, such as the one in the Policy at issue here, are ambiguous. *See Kings Ridge Cmty. Ass’n, Inc. v. Sagamore Ins. Co.*, 98 So.3d 74, 79–80 (Fla.Dist.Ct.App.2012) (concluding that an identical collapse provision was “susceptible to more than one reasonable interpretation, one providing coverage, and the other limiting coverage” where the flat roof of a clubhouse substantially depressed, and the drop ceiling and first eleven roof trusses deflected twelve inches); *see also Malbco Holdings, LLC v. AMCO Ins. Co.*, 629 F.Supp.2d 1185, 1196 (D.Or.2009). Courts finding the collapse provision at issue ambiguous, have reasoned that the four-part definition of collapse provided by the Policy is internally inconsistent. For example, in *Landmark Realty, Inc. v. Great American Insurance Co.*, Civ. No. 10–278, 2010 WL 5055805, at *1 (D.Md. Dec. 3, 2010), the court considered an identical collapse provision in the context of a building where part of the building’s floor sunk nine inches due to decay rendering the building uninhabitable, but part of the building was unaffected. The *Landmark* court explained the ambiguity in the collapse provision:

*11 In sum, [the insured] relies on Subsection [(a)]’s definition of “collapse:” “an abrupt falling down or caving in of a building or any part of a building with the result that the building or part of the building cannot be occupied for its intended purpose.” This definition of collapse clearly applies here because there is no dispute that the collapse

of the [floor in part of the building] resulted in the entire building being unusable for its intended purpose. [The insurance company] relies on Subsections [(b) and (c)], which would exclude the damage to [the other part of the building] because that part did not fall down or cave in, even if it was in danger of doing so ... and was still standing despite the unstable structural supports.... The conflicting results produced by application of these collapse provisions creates an ambiguity which precludes the granting of summary judgment to either party.

Id. at *5 (footnote and internal citations omitted)⁴; *see also Scorpio*, 2012 WL 2020168 at *6 (“In this instance, part of a building, the roof, deflected approximately 6 inches causing the building to be unsuitable for occupancy. Thus, subsection (a) of the collapse provision, arguably, affords coverage. In addition, however, because the building was still standing, subsections (b) or (d) may be read and understood to preclude coverage.”).

The Court finds that the collapse provision in the Policy here is ambiguous. The circumstances of this case represent a prime example of the conflicting nature of the four subsections defining collapse. According to the city inspection and the reports of Harleysville’s and Johnson Properties’ engineers, it is undisputed that the roof sagged 10.5 inches after the rain event. It is also undisputed that roof joists were overloaded by the pooling water and broke; causing part of the Building’s ceiling to cave in. Such damage constitutes an “abrupt falling down or caving in of a building or any part of a building.” The result of the sagging roof, broken joists, and hole in the ceiling was that at least one of the apartments in the Building could not “be occupied for its intended purpose” and was condemned by the City of Saint Paul. Therefore, subdivision (a) of the definition of collapse in the Policy could be read as providing coverage. *See Scorpio*, 2012 WL 2020168 at *6. Harleysville also admitted that the broken roof joists and roof sag were caused by overloading due to the ponding water, indicating that the damage falls within the Policy’s coverage for a collapse caused by “[w]eight of rain that collects on a roof.” However, the Building is still standing, and the roof is sagging, suggesting that no collapse occurred within the meaning of subdivision (d), which provides that “any part of a building that is standing is not considered to be in a state of collapse even if it shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinking or expansion.”

*12 Because the damage caused to the Building can be read both as constituting and not constituting a collapse within the Policy, the Court finds the collapse provision ambiguous.⁵ Accordingly, the Court will construe this ambiguity in favor of Johnson Properties, and conclude that the collapse provision, when considered in isolation from the Water Endorsement, provides coverage for the collapse of part of the Building which was caused by the weight of rain that collected on the roof. *See Donarski v. Lardy*, 88 N.W.2d 7, 10–11 (Minn.1958) (“[W]e ... have a well-established rule in this state which is that the language of a policy, being that selected by the insurer and for its benefit, must be clear and unambiguous, and any reasonable doubt as to its meaning must be resolved in favor of the insured.”); *see also Malbco Holdings*, 629 F.Supp.2d at 1197 (finding an identical collapse provision to be ambiguous and resolving the ambiguity “against the insurer”); *Kings Ridge Cmty*, 98 So.3d at 79 (same).

E. Interaction Between Water Endorsement and Collapse Coverage

Having determined that, in isolation, the Water Endorsement could, and the collapse provision does, provide coverage for the damage at issue, the Court must consider how the two coverage provisions interact within the Policy. Ultimately, the Court must determine whether, if coverage is possible under both provisions, Johnson Properties' coverage can be limited to \$25,000 under the Water Endorsement.

1. The Anti-Concurrent Loss Provision

Harleysville argues that an anti-concurrent loss provision in the Policy precludes coverage under any other covered cause of loss if the Water Endorsement applies and \$25,000 in damage has occurred. Analysis of this contention requires several analytical steps.

First, the body of the Harleysville Policy (in the absence of the Water Endorsement) excludes “loss or damage caused directly or indirectly by ... water that backs up or overflows from a sewer, drain or sump.” This exclusion contains the relevant language identified by Harleysville. This lead up language states that the exclusion applies “regardless of any other cause or event that contributes concurrently or in any sequence to the loss.” This lead up language is known as an anti-concurrent causation clause or an anti-concurrent loss provision, and evidences the parties' intent to contract around the concurrent causation doctrine. *See Friedberg v. Chubb & Son, Inc.*, 832 F.Supp.2d 1049, 1057 (D.Minn.2011), *aff'd*,

691 F.3d 948 (8th Cir.2012); *see also TNT Speed & Sport Ctr., Inc. v. Am. States Ins. Co.*, 114 F.3d 731, 733 (8th Cir.1997) (upholding a district court's conclusion that “parties may contract out of application of the efficient proximate cause doctrine”).

To understand the import of the anti-concurrent loss provision, the Court begins by examining the concurrent causation doctrine that the anti-concurrent loss provision is intended to stymie. Under the concurrent causation doctrine, where an excluded peril contributes to a loss, an insured may recover only if a covered peril is the efficient and proximate cause of the loss. *Chubb & Son*, 691 F.3d at 952–53 (citing *Fawcett House, Inc. v. Great Cent. Ins. Co.*, 159 N.W.2d 268 (Minn.1968); *Anderson v. Conn. Fire Ins. Co.*, 43 N.W.2d 807 (Minn.1950)). Conversely, if an excluded peril is the efficient and proximate cause of the loss, then coverage is excluded. *Id.* at 952; *see also Colella v. State Farm Fire & Cas. Co.*, 407 F. App'x 616, 622 (3d Cir.2011) (“[W]hen there are two or more causes of loss, the policyholder's claim is covered as long as the immediate or proximate cause of loss is covered by the policy.” (alteration and internal quotation marks omitted)). The efficient proximate cause of a loss is the fundamental cause, or the cause that set the chain of events into motion. *See Lee R. Russ & Thomas F. Segalla*, 7 Couch on Insurance § 101:45 (3d ed.2012). Insurance companies use anti-concurrent causation clauses, like the one found in Harleysville's Policy, in order to exclude coverage when **any** portion of the loss was caused by an excluded event. *See Leonard v. Nationwide Mut. Ins. Co.*, 499 F.3d 419, 425 (5th Cir.2007) (“[T]his prefatory language denies coverage whenever an excluded peril and a covered peril combine to damage a dwelling or personal property.”). When an anti-concurrent loss provision is triggered, therefore, courts need not inquire into which of a covered or excluded loss was the proximate cause of the damage, but simply exclude coverage where any portion of the loss was caused or contributed to by an excluded loss.

*13 With this background in mind, Harleysville appears to be arguing that the damage to the Building at issue here was caused, at least in part, by water backing up or overflowing from the roof drain. Harleysville argues that such coverage is excluded under the Policy and is subject to an anti-concurrent causation clause. If this clause is applied, Harleysville argues the exclusion for damage caused by water backing up or overflowing from a drain would preclude any coverage caused by collapse, because an excluded cause (damage in

excess of \$25,000 caused by water backing up from a drain) contributed, at least partially, to the loss.

Although Harleysville's general argument regarding the functioning of an anti-concurrent causation clause is correct, the Court finds that the anti-concurrent causation clause in the Policy is not triggered by any of the coverages at issue in this case. The anti-concurrent causation clause does not apply because coverage for damage resulting from a backed up water drain is **not** excluded under the Policy due to operation of the Water Endorsement. The Water Endorsement modifies the Policy's coverage, and states that Harleysville "will pay for direct physical loss or damage to Covered Property ... caused by or resulting from [w]ater or waterborne material which backs up through or overflows or is otherwise discharged from a sewer or drain." The Water Endorsement specifically amends the Policy's exclusionary language regarding damage caused by water backing up or overflowing from a drain. The Water Endorsement states that "[w]ith respect to the coverage provided under this Endorsement, the Water Exclusion in Section I—Property, is replaced by the following exclusion[.]" The exclusion listed in the Water Endorsement does not contain the language "loss or damage caused directly or indirectly by ... water that backs up or overflows from a sewer, drain or sump." Therefore, pursuant to the Water Endorsement, damage caused by water that backs up from a drain is no longer part of the Policy's exclusion section. Because water that backs up from a drain is no longer part of the Policy's exclusion section it is no longer subject to the anti-concurrent causation clause that prefaces the exclusion section. For Harleysville's argument to be persuasive, the exclusion for "loss or damage caused directly or indirectly by ... water that backs up or overflows from a sewer, drain or sump" expressly removed by the Water Endorsement would somehow have to revert back into the Policy's exclusion section after \$25,000 (the insurance limit of the Water Endorsement) of damage caused by water backing up or overflowing from a drain had occurred. The language of the Water Endorsement does not support such a result. Instead the Water Endorsement affirmatively removes the exclusion for damage caused by water backing up or overflowing through a drain, and does not reinsert the exclusion into the Policy, even after the \$25,000 cap on coverage has been reached. Therefore, the Court concludes that the anti-concurrent causation clause does not apply to any potential coverage under either the Water Endorsement or the collapse provision.

2. Simultaneous Coverage Under the Water Endorsement and Collapse Provision

***14** Having determined that the anti-concurrent causation clause does not apply, the Court must next determine whether Johnson Properties can obtain coverage under both the Water Endorsement (with its \$25,000 coverage limit) and the collapse provision.

When faced with multiple contributors to a single damage event, in the absence of an anti-concurrent loss provision, courts typically consider which contributor was the proximate cause of the damage. *See, e.g., Fawcett House, Inc.*, 159 N.W.2d at 270; *see also Wright v. Safeco Ins. Co. of Am.*, 109 P.3d 1, 6 (Wash.Ct.App.2004) ("Under the efficient proximate cause rule, where a peril specifically insured against sets other causes in motion which, in an unbroken sequence and connection between the act and final loss, produce the result for which recovery is sought, the insured peril is regarded as the proximate cause of the entire loss, even though other events within the chain of events are excluded from coverage." (internal quotations omitted)). Courts undertake such an analysis, however, to distinguish between covered and excluded forces that have both contributed to a single loss. *See Fawcett House, Inc.*, 159 N.W.2d at 270 ("[T]he loss here is covered because it was directly caused by a specifically covered risk, even though indirectly and incidentally enhanced by another peril expressly excluded from coverage."). In other words, in applying an efficient proximate cause test, courts are attempting to parse out where to place the damage in the context of the policy—into an excluded or included coverage provision.

The question of causation presented by the present case is unusual, because it is typically irrelevant **which** of multiple covered events caused a loss, as, if coverage is found, the insurance company will pay the cost of the damage. Here, the question is relevant because one of the causes of loss is subject to a \$25,000 coverage limit. The Court finds, however, that the efficient proximate cause inquiry undertaken by courts to distinguish between covered and excluded causes of loss is not the appropriate inquiry when presented with two covered causes of loss. It would be nonsensical for a court to conclude that a loss was caused by both a covered and an excluded event because an insurance company cannot simultaneously provide and deny coverage. But there is nothing patently inconsistent in determining that a loss was caused by two separate kinds of covered events. Instead, the Court concludes that the common definition of cause, as it would be understood by a reasonable person in the position

of the insured, should be applied to determine the scope of Johnson Properties' coverage.

The Policy states that Harleysville “will pay for direct physical loss of or damage to Covered Property at the premises described in the Declarations caused by or resulting from any Covered Cause of Loss.” This language is broad and indicates that Harleysville will be responsible for damages caused by or resulting from any covered cause of loss—even where two covered causes combined to cause the damage. Cause is defined as “something that occasions or effects a result” or “determines any motion or change or produces a phenomenon.” *Webster's Third International Dictionary* 356 (2002); see also *The American Heritage Dictionary of the English Language* 295 (5th ed.2011) (defining cause as “[t]he ... event, or condition that is responsible for an action or result”). As explained above, it is undisputed that the weight of rain water pooling on the roof occasioned or effected a collapse of the roof, ceiling, and roof joists. Additionally, water backing up or overflowing through a drain was a condition that was also potentially responsible for some of the damage caused to the building. Because the damage to the Building was caused by or resulted from two covered events—the weight of rain water pooling on the roof as well as water backing up or overflowing from the roof drain—the plain language of the Policy dictates that Harleysville pay for the damage. The Court has found no legal principle or any portion of the Policy that would require or permit the Court to interpret the Policy as affording only the lowest possible amount of coverage where two covered causes contribute to a loss. Consequently, the Court will apply the plain language of the Policy which provides coverage for losses caused by water backing up or overflowing through a drain (albeit limited to \$25,000) and also provides full coverage for collapse caused by the weight of rain pooling on a roof.

***15** Additionally, the Court finds that application of the common definition of cause in this circumstance is consistent with the Policy's designation of collapse coverage as “additional coverage.” When considering additional insurance, like the collapse coverage at issue here, Courts have refused to apply either anti-concurrent causation provisions or efficient proximate cause analysis because “general exclusions listed in the Policy do not modify or qualify the additional collapse coverage.” *State Auto. Mut. Ins. Co. v. R.H.L., Inc.*, No. 07–1197, 2010 WL 909073, at *12 (W.D.Tenn. Mar. 12, 2010); see also *Young Sook Pak v. Alea London Ltd.*, Civ. No. 1:08–CV–0824, 2009 WL 2366549, at *7 (M.D.Penn. July 30, 2009). In *R.H.L.* the

court considered whether the insured could receive additional coverage for collapse, even though the court had already determined that a water exclusion precluded coverage under the policy for the damage and that the policy contained an anti-concurrent causation clause. 2010 WL 909073, at *11–12; see also *Koskovich v. Am. Family Mut. Ins. Co.*, No. A 11–2206, 2012 WL 2369001, at *5 (Minn. Ct.App. June 25, 2012) (examining whether a policy provided additional coverage for collapse, even though the policy contained an anti-concurrent loss provision and the court had already concluded that the damage at issue was not covered by the policy pursuant to an exclusion for rot and mold). Because collapse coverage is additional insurance under the Policy, it is irrelevant to Johnson Properties' ability to obtain coverage under the collapse provision that the Water Endorsement may also provide coverage.

As a final matter, the Court notes that applying a common definition of the term cause avoids an interpretation of the Policy that would essentially render the additional coverage for collapse a nullity. See *Wyatt v. Wyatt*, 58 N.W.2d 873, 875 (Minn.1953) (explaining that courts will not adopt a “construction of an insurance policy which entirely neutralizes one provision ... if the contract is susceptible of another construction which gives effect to all its provisions and is consistent with the general intent”). If Harleysville is correct both that the Water Endorsement provides coverage for the damage at issue, and that by providing coverage the Water Endorsement prevents Johnson Properties from obtaining coverage for collapse caused by the weight of rain pooling on the roof, the collapse provision would be rendered meaningless. Because gutters and roof drains are included in the backup or overflow provision in the Water Endorsement, it is difficult to imagine circumstances in which an insured's roof would collapse due to rain water collecting on the roof that would not also implicate water “overflowing” or “backing up” from a drain. In instances of heavy rainfall, water would likely pool on the roof only if it is not draining properly. Accordingly, adopting Harleysville's reading of the Policy would essentially always limit the insured to \$25,000 of coverage under the Water Endorsement, instead of the full coverage for collapse due to the weight of rain pooling on a roof as described in the additional insurance section of the Policy. Because adopting a definition of “cause” that limits Johnson Properties to recovering damages occasioned by only one covered event would have the effect of reading the collapse coverage out of the Policy, the Court declines to read “cause” within the Policy narrowly.

*16 Therefore, the Court concludes that the Policy provides coverage for the damage to the Building pursuant to the collapse provision and potentially the Water Endorsement. Because Harleysville limited Johnson Properties' coverage to \$25,000 under the Water Endorsement, the Court finds that no genuine issue of material fact remains regarding Harleysville's breach of the Policy by failing to reimburse Johnson Properties for damage to the Building caused by collapse. Accordingly, the Court will grant Johnson Properties' motion for summary judgment on its breach of contract claim, and deny Harleysville's motion.

III. WAIVER/ ESTOPPEL CLAIM

Harleysville also moves for summary judgment on Johnson Properties' hybrid waiver and estoppel claim.

A. Waiver

Johnson Properties' complaint alleges generally that Harleysville has waived its right to dispute coverage under the Policy by agreeing to provide coverage under the Water Endorsement. The Court finds that Harleysville unequivocally did not waive its right to dispute coverage.

"Waiver is the intentional relinquishment of a known right." *Frandsen v. Ford Motor Co.*, 801 N.W.2d 177, 182 (Minn.2011). A valid waiver requires both "knowledge of the right" and "an intent to waive the right." *Id.* Furthermore "[w]aiver may be express or implied—knowledge may be actual or constructive and the intent to waive may be inferred from conduct." *Id.* (internal quotation marks omitted).

Here, Harleysville sent two letters regarding its coverage determination—one to Johnson Properties directly and one to counsel for Johnson Properties. Several provisions of the letter are relevant to the issue of waiver. First, Harleysville indicated in both letters that there was coverage under the Water Endorsement and no coverage under the collapse provision—the same arguments it advances in this litigation. Therefore, Harleysville is not attempting to assert a position that it may have impliedly waived, instead its position on coverage has been identical throughout the course of the insurance dispute. Johnson Properties has cited no authority, and the Court has found none, to support the proposition that payment under a certain provision of an insurance policy automatically waives an insurer's right to assert defenses to coverage under other provisions.

Second, Harleysville expressly indicated in the letters that its investigation was "subject to a complete reservation of rights," and that "[n]either Harleysville's investigation nor this letter or any other communication is a waiver of Harleysville's rights under the policy or the law whether or not mentioned in this letter." Harleysville indicated that its investigation of the loss was ongoing and that the investigation "is being conducted subject to a complete reservation of rights. Neither Harleysville's investigation nor this letter or any other communication is a waiver of Harleysville's rights under the policy or the law, whether or not mentioned in this letter. Harleysville reserves all rights available to it." Harleysville also stated that "its coverage position is based on the information available at this time. Harleysville reserves the right to reconsider its coverage position upon receipt of additional information." Therefore, it is clear from the record that Harleysville did not waive its right to dispute Johnson Properties' coverage under the collapse provision. Therefore the Court will grant Harleysville's motion for summary judgment with respect to Johnson Properties' waiver claim.

B. Estoppel

*17 Johnson Properties' waiver/estoppel claim also contains allegations that appear consistent with equitable estoppel. The Court finds that Johnson Properties has failed to demonstrate the existence of a material issue of fact with respect to the elements of equitable estoppel.

A party wishing to invoke equitable estoppel must prove several elements: (1) a representation or concealment of material facts; (2) the facts must be known by the party to be estopped at the time of the representation; (3) the truth of the facts must be unknown to the party claiming the benefit of estoppel at the time when the conduct was done; (4) the misrepresentation must have been made with the intention to induce reliance; (5) the party claiming the benefit of estoppel must have relied on the representations; and (6) the party claiming the benefit of estoppel must have relied on the misrepresentations to his detriment. *See Lunning v. Land O'Lakes*, 303 N.W.2d 452, 457 (Minn.1980).

As an initial matter, Johnson Properties did not submit any argument in response to Harleysville's motion for summary judgment on the issue of estoppel, and therefore has likely waived the claim. *See Satcher v. Univ. of Ark. at Pine Bluff Bd. of Trs.*, 558 F.3d 731, 735 (8th Cir.2009) ("[F]ailure to oppose a basis for summary judgment constitutes waiver of that argument."); *Rodgers v. City of*

Des Moines, 435 F.3d 904, 908 (8th Cir.2006) (“Without some guidance, we will not mine a summary judgment record searching for nuggets of factual disputes to gild a party's arguments.”). Furthermore, the record does not support the application of equitable estoppel. For example, Harleysville's letters regarding coverage contain no misrepresentations of the Policy's language. Instead, Harleysville's letters are merely its own opinions regarding the applicability of the collapse coverage. Johnson Properties also had access at all times to the true facts—i.e. the true language of the Policy. Importantly, there is no evidence that Johnson Properties relied on Harleysville's coverage determination to its detriment. Indeed, Johnson Properties did not believe that Harleysville's coverage assessment was correct and almost immediately filed the instant lawsuit. Therefore, the Court will grant Harleysville's motion for summary judgment as to Harleysville's estoppel claim.

IV. APPRAISAL

Johnson Properties also seeks a declaratory judgment, asking the Court to order an appraisal under the Policy. Johnson Properties did not respond to Harleysville's motion for summary judgment on this claim, except to state “[t]o the extent there is a dispute over the valuation of covered damages subsequent to the ruling on these motions—appraisal maybe [sic] appropriate.” (Reply at 20, Feb. 14, 2013, Docket No. 34.)

A federal court “[i]n a case of actual controversy within its jurisdiction ... may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought.” 28 U.S.C. § 2201(a). The phrase “case of actual controversy” imposes limitations on when a court may issue a declaratory judgment similar to the rule that only “cases” and “controversies” are justiciable under Article III of the Constitution. *See Maytag Corp. v. Int'l Union, United Auto., Aerospace & Agric. Implement Workers of Am.*, 687 F.3d 1076, 1081 (8th Cir.2012). In other words, the Court may only issue a declaratory judgment if there is “a concrete dispute between parties having adverse legal interests.” *Id.* “[T]he declaratory judgment plaintiff must seek ‘specific relief through a decree of a conclusive character, as distinguished from an opinion advising what the law would be upon a hypothetical state of facts.’” *Id.* (quoting *Aetna Life Ins. Co. v. Haworth*, 300 U.S. 227, 241 (1937)). Further, while a declaratory judgment necessarily is allowed to issue before an injury has occurred, “the plaintiff must face an injury that is ‘certainly impending’ “ in order for a claim to be ripe. *Pub. Water Supply Dist. No. 8 of Clay Cnty., Mo. v. City of Kearney,*

Mo., 401 F.3d 930, 932 (8th Cir.2005) (quoting *Pennsylvania v. West Virginia*, 262 U.S. 553, 593 (1923)).

*18 The Policy clearly lays out a procedure for obtaining an appraisal if the parties disagree about the amount of loss. There is no evidence in the record that the parties disagree about the amount of appraisal. Pursuant to the Policy, either Harleysville or Johnson Properties can request an appraisal by submitting a written demand. There is no evidence that Johnson Properties has attempted to obtain an appraisal under the Policy, or that any attempt has been or would be unsuccessful. Therefore, Johnson Properties has failed to present a controversy that is ripe for adjudication. Furthermore, there is no indication that it is “certainly impending” that Harleysville would reject Johnson Properties' demand for an appraisal. Therefore, the Court will grant Harleysville's motion for summary judgment with respect to Johnson Properties' appraisal claim.

ORDER

Based on the foregoing, and all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Plaintiff's Motion for Partial Summary Judgment [Docket No. 16] is **GRANTED**.
2. Defendant's Motion for Summary Judgment [Docket No. 28] is **GRANTED in part** and **DENIED in part** as follows:
 - a. Defendant's Motion is **DENIED** as to Plaintiff's breach of contract claim (Count I).
 - b. Defendant's Motion is **GRANTED** as to Plaintiff's waiver/estoppel claim (Count II) and declaratory judgment claim (Count III). These claims are **DISMISSED with prejudice**.
3. Within twenty-one (21) days of the entry of this Order, Plaintiff shall meet and confer with Defendant to ascertain whether any disputes exist regarding damages. In the event the parties are able to agree on the amount of damages sustained by the Building, the parties shall submit a stipulation to the Court regarding such damages.
4. If the parties are unable to agree on the amount of damages, within twenty-eight (28) days of the entry of this Order, Plaintiff shall submit to the Court, and serve upon Defendant:
 - (a) a letter brief not to exceed 3,000 words regarding its

damages calculation; and (b) documentation supporting its damages request.

(b) a request for a hearing, status conference, or trial regarding the issue of damages, if necessary; and (c) documentation supporting its objections and request.

5. Within seven (7) days after service of Plaintiff's letter brief, Defendant may submit to the Court, and serve upon Plaintiff: (a) a letter brief not to exceed 3,000 words raising any objections it may have to Plaintiff's damages calculation;

All Citations

Not Reported in F.Supp.2d, 2013 WL 5487444

Footnotes

- 1 It does not appear that Johnson Properties' initial notification to Harleysville is part of the record. Neither party disputes that Johnson Properties timely notified Harleysville of the damage to the Building in accordance with the Policy.
- 2 At certain points in its briefing, Johnson Properties seems to indicate that it agrees that the Water Endorsement provided coverage for damage to the Building. (See Pl.'s Mem. in Support of Mot. for Summ. J. at 9, Dec. 26, 2012, Docket No. 18 (noting that Harleysville admitted coverage under the Water Endorsement); Pl.'s Reply Mem. at 2, Feb. 14, 2013, Docket No. 34 (explaining that "Ken Johnson has proven **two separate means of insurance coverage** for this loss" (emphasis added)).) Because Johnson Properties appears to be making some argument that the Water Endorsement does not provide coverage at all, this case involves a complicated twist on the burdens of proof. The insured bears the initial burden of establishing coverage, and the insurer bears the burden of establishing the applicability of an exclusion. Here, the roles appear to be reversed. Harleysville is arguing that the Water Endorsement provides coverage, while Johnson Properties appears to be arguing, at least in part, that the Water Endorsement does not provide any coverage. Because the Court assumes, without deciding, for purposes of this order that the Water Endorsement provides coverage for the damage at issue, it need not resolve possible burden of proof issues raised by the parties' arguments.
- 3 In its reply brief, Harleysville argues that Johnson Properties did not make an ambiguity argument until its own reply brief and therefore the argument should not be considered by the Court. Harleysville is correct that Johnson Properties did not argue that the collapse provision was ambiguous in its opening brief in support of its own motion for summary judgment. But Harleysville is incorrect that Johnson Properties raised the ambiguity argument only in its reply brief. This case involves cross motions for summary judgment, but the parties chose to consolidate their reply briefs with their responsive briefs, each filing only two briefs total for both motions. Therefore, Johnson Properties' "reply" brief is also its brief in response to Harleysville's motion for summary judgment, and new arguments based on Harleysville's moving papers are therefore appropriate. Consequently, the Court will consider Johnson Properties' ambiguity arguments raised in its responsive/reply brief.
- 4 The *Landmark* court was admittedly facing a slightly different question than that presented to the Court here. In *Landmark* the insurance company was attempting to pay for only part of the damage caused by the collapse, because part of the building remained standing. 2010 WL 5055805 at *3. Therefore, the insurance company was not disputing that part of the building had collapsed. The court's reasoning remains applicable because the internal inconsistency in the definition of collapse is just as relevant in a case such as this where Harleysville is relying on the latter parts of the "collapse" definition to seemingly override the first part of the definition.
- 5 The Eighth Circuit has noted that a district court need not "invariably construe" an ambiguous policy in favor of coverage, but instead may resort to extrinsic evidence to determine the reasonable expectations of the insured. *See Minn. Sch. Bds. Ass'n Ins. Trust v. Emp'rs Ins. of Wausau*, 331 F.3d 579, 581–82 (8th Cir.2003). The Court does not interpret this case as requiring that ambiguous insurance policies always be submitted to a jury to determine the insured's reasonable expectations regarding coverage. Instead, in order to avoid summary judgment, the insurance company must come forward with some extrinsic evidence demonstrating that a genuine issue of material fact remains regarding the reasonable expectations of the insured. *See, e.g., id.* (finding that the district court did not err in submitting the question of the insured's reasonable expectations to the jury where the record indicated that the policy had been unconditionally cancelled, and thus a fact question existed regarding whether it was reasonable to expect reinsurance coverage to have attached during the term of that policy); *Fenske v. Waseca Mut. Ins. Co.*, No. C9–93–2054, 1994 WL 149483, at *3–4 (Minn.Ct.App. Apr. 19, 1994) (remanding for consideration of the meaning of an ambiguous policy "[b]ecause there are genuine issues of material fact regarding the circumstances under which the insurance contract was created, including the intent of the parties"). Here, Harleysville has identified no extrinsic evidence of any kind, nor has Harleysville argued at any point that Johnson Properties' interpretation of the Policy's collapse provision exceeds the reasonable expectations

of an insured. Accordingly, in the absence of any extrinsic evidence that could potentially create an issue of material fact regarding Johnson Properties' reasonable expectations, the Court will grant summary judgment in Johnson Properties' favor regarding coverage for collapse.

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